

**THE SECOND CHANCE ACT: STRENGTHENING SAFE  
AND EFFECTIVE COMMUNITY REENTRY**

---

---

**HEARING**

BEFORE THE

**COMMITTEE ON THE JUDICIARY**

**UNITED STATES SENATE**

**ONE HUNDRED ELEVENTH CONGRESS**

**SECOND SESSION**

\_\_\_\_\_  
**JULY 21, 2010**  
\_\_\_\_\_

**Serial No. J-111-101**

\_\_\_\_\_

Printed for the use of the Committee on the Judiciary



U.S. GOVERNMENT PRINTING OFFICE

64-378 PDF

WASHINGTON : 2011

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON THE JUDICIARY

PATRICK J. LEAHY, Vermont, *Chairman*

HERB KOHL, Wisconsin	JEFF SESSIONS, Alabama
DIANNE FEINSTEIN, California	ORRIN G. HATCH, Utah
RUSSELL D. FEINGOLD, Wisconsin	CHARLES E. GRASSLEY, Iowa
ARLEN SPECTER, Pennsylvania	JON KYL, Arizona
CHARLES E. SCHUMER, New York	LINDSEY GRAHAM, South Carolina
RICHARD J. DURBIN, Illinois	JOHN CORNYN, Texas
BENJAMIN L. CARDIN, Maryland	TOM COBURN, Oklahoma
SHELDON WHITEHOUSE, Rhode Island	
AMY KLOBUCHAR, Minnesota	
AL FRANKEN, Minnesota	

BRUCE A. COHEN, *Chief Counsel and Staff Director*

BRIAN A. BENZCOWSKI, *Republican Staff Director*

## CONTENTS

### STATEMENTS OF COMMITTEE MEMBERS

	Page
Feingold, Hon. Russell D., a U.S. Senator from the State of Wisconsin, prepared statement .....	167
Grassley, Hon. Charles, a U.S. Senator from the State of Iowa .....	2
Leahy, Hon. Patrick J., a U.S. Senator from the State of Vermont .....	1
prepared statement .....	172

### WITNESSES

Duran, Le'Ann, Reentry Project Director, Justice Center, Council of State Governments, New York, New York .....	5
Husock, Howard, Vice President, Policy Research, Manhattan Institute for Policy Research, New York, New York .....	12
Muhlhausen, David, Senior Policy Analyst Center for Data Analysis, The Heritage Foundation, Washington, DC .....	10
Pallito, Andrew A., Commissioner, Vermont Department of Corrections, Waterbury, Vermont .....	3
Rodriguez, Sol, Executive Director, Open-Doors, Providence, Rhode Island .....	8

### QUESTIONS AND ANSWERS

Responses of Andrew A. Pallito to questions submitted by Senator Cardin .....	23
Responses of Sol Rodriguez to questions submitted by Senator Cardin .....	31

### SUBMISSIONS FOR THE RECORD

Duran, Le'Ann, Reentry Project Director, Justice Center, Council of State Governments, New York, New York, statement .....	149
Husock, Howard, Vice President, Policy Research, Manhattan Institute for Policy Research, New York, New York, statement .....	169
Muhlhausen, David, Senior Policy Analyst Center for Data Analysis, The Heritage Foundation, Washington, DC, statement .....	174
Pallito, Andrew A., Commissioner, Vermont Department of Corrections, Waterbury, Vermont, statement and attachments .....	188
Robinson, Laurie E., Assistant Attorney General, Office of Justice Program, statement .....	209
Rodriguez, Sol, Executive Director, Open-Doors, Providence, Rhode Island, statement .....	213



## **THE SECOND CHANCE ACT: STRENGTHENING SAFE AND EFFECTIVE COMMUNITY REENTRY**

**WEDNESDAY, JULY 21, 2010**

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC*

The Committee met, pursuant to notice, at 2:44 p.m., Room SD-226, Dirksen Senate Office Building, Hon. Patrick J. Leahy, Chairman of the Committee, presiding.

Present: Senators Cardin, Whitehouse, Franken, Sessions, and Grassley.

### **OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT**

Chairman LEAHY. First off, I apologize for being late. I was just telling Senator Grassley, as I told Senator Whitehouse outside, that another Senator and I were on the subway, chit-chatting, waiting for the subway car to come; great, interesting conversation; suddenly realized there was no subway car. It had broken down. So we hoofed it over. So I apologize.

Today, we are going to consider the important issue of how best to ensure that when people get out of prison, they become productive members of society rather than turning to a life of crime. And many states are making great strides with innovative prisoner reentry programs. We are going to hear about some of those efforts today.

In 2008, we passed the Second Chance Act to give Federal, state and local governments additional tools to help inmates more successfully get back into their communities upon release, and we are going to hear about what impact it might have.

It is interesting. The Senator I was talking with is from a large state and I think he would probably consider himself a Conservative Republican and was strongly backing Second Chance and the fact that if we want to get people back into employment, there has to be some way to do that.

We passed the bill, after a lot of work and compromise, unanimously. Next year, it will need to be reauthorized and I hope we have the same bipartisanship again.

I worked with Senator Brownback and Senator Specter and then Senator Biden to pass it the first time. I know that Senator Cardin has a strong interest in this area. Senator Whitehouse has shown a great deal of leadership on prison reform and reentry and he is helping at today's hearing.

We have passed several new criminal laws, both in Congress and the states, creating more and longer sentences for more people. Now, a number of the states are realizing that costs them a lot of money. California, for example, is facing some horrible problems.

There are currently more than 2 million people in jail or prison. More than 13 million people spend some time in jail or prison each year.

I know from my own experience as a prosecutor, most of these people sometimes return to our communities. Now, what kind of experience they have in prison, how we prepare them to rejoin society, is actually going to affect the communities we live in. It is going to affect them a great deal.

Before we passed the Second Chance Act, Vermont and other states were implementing innovative programs to build safer and stronger communities by ensuring that people in prison receive services to help them become productive members of society when they come out and not go back into crime.

The Second Chance Act builds on this important work. It also says, that state and local corrections agencies and nonprofits, educational, institutional service providers, families, that if they are going to have a grant, they have to demonstrate measurable, positive facts, including a reduction in recidivism.

It takes an important step toward the goal of reducing the nationwide recidivism rate of 66 percent. That, of course, will decrease the annual nationwide \$8.2 billion cost of incarceration.

Now, the Vermont Department of Corrections and many others in Vermont are strongly supporting this crucial piece of legislation. It gives me a sense of confidence, when I go home to Vermont, that it is making our state safe and those others who are doing it around the country and making the country safer.

And this is not in any way a partisan issue. We have a Republican Governor, myself, we both agree with this, but nobody even looks at it as a Republican or Democratic issue. They just look at it as a sensible one.

I know that Commissioner Andrew Pallito is here. He has had great success helping reentry programs, and I look forward to hearing from him.

Also, I welcome Le'Ann Duran from the National Reentry Resource Center; Sol Rodriguez, Open Doors of Rhode Island, we are going to hear how that worked in Rhode Island.

I have no compunction against tough sentences when it fits the crime, but I also want to know that some days the jailhouse door is going to open and we ought to have somebody come out who can be in society.

[The prepared statement of Chairman Leahy appears as a submission for the record.]

Chairman LEAHY. Senator Grassley, did you want to add anything?

**STATEMENT OF HON. CHARLES GRASSLEY, A U.S. SENATOR  
FROM THE STATE OF IOWA**

Senator GRASSLEY. First of all, I am only going to be able to be here until 3. So I will be able to hear a couple of the witnesses. And I want to be on top of this issue, because, obviously, keeping

people behind bars if it is not necessary is very much a costly product that hits states worse than it hits the Federal Government, but all taxpayers are paying more.

And the extent to which everybody has something to contribute to our society, we ought to encourage that contribution and not to have the recidivism rate that we have is very, very important.

I am interested in knowing how the programs are working and I'm interested in knowing what other ideas might be out there.

Thank you for this opportunity.

Chairman LEAHY. The first witness, Andrew Pallito, is the current Commissioner of the Vermont Department of Corrections, a role he has held since 2008. He previously served as deputy commissioner, as management executive overseeing the department's administrative, financial, information technology and training needs.

He serves on the Vermont Criminal Justice Training Council, which oversees the training of individuals from all law enforcement agencies in Vermont.

He began working in Department of Corrections in 2001, did 9 years serving other parts of the Vermont City Government, including the Agency of Human Services.

He is a graduate of the Vermont Leadership Institute, received his bachelor's degree from St. Peter's College.

He is joined by his wife today. And I will just mention on the side, she was born in Barre, Vermont, the same place my father was born.

Mr. Pallito, please go ahead.

**STATEMENT OF ANDREW A. PALLITO, COMMISSIONER,  
VERMONT DEPARTMENT OF CORRECTIONS, WATERBURY,  
VERMONT**

Mr. PALLITO. Mr. Chairman and fellow members, thank you for the opportunity to speak to the Committee today regarding the issue of offender reentry and for the opportunity to showcase some of the innovative work that we are doing in Vermont.

Our work in engaging community partners in offender reentry has been brought on by an explosive growth in incarceration. In 1990, Vermont had roughly one-third the number of offenders that it has in 2010, representing an increase of a staggering 160 percent increase in incarceration.

To manage this growth over the past 20 years, the state has built several new correctional facilities and today houses roughly one-third of its offenders in out-of-state private contracted facilities.

This unprecedented increase has placed an enormous burden on the state's general fund. The Department of Corrections' annual percentage growth continues to take a larger and larger share of the state's available resource and has outstripped our ability as Vermonters to sustain many other programs.

There is good news, however, in that the annual rate of growth has slowed. This, I believe, has been accomplished by a number of new strategies which affect the number of offenders coming into the system, such as diversion programs and the manner in which offenders are released from facilities.

Over the past few years, my department has been engaging and educating communities throughout the state about the importance of solid release planning for all offenders, including those with very violent histories.

What differentiates Vermont's response to reentry from traditional approaches is the philosophical foundation of restorative justice principles and community involvement.

By providing returning offenders with high measures of support and accountability, fostering meaningful participatory community connections, and leveraging the informal social influence exercised by family and neighbors, we effectively complement best correctional practice for a more successful reentry process for offenders.

The support and accountability derived from these relationships increases offender investment and opportunity. We have seen this with our work with Circles of Support and Accountability, also known as a COSA. A COSA is a group of five or so individuals who are trained in the need areas of particular offenders and who, in turn, hold an offender accountable while assisting and supporting them with the reentry process.

COSAs are coordinated by local municipal community justice centers. There are 12 such community justice centers located throughout the state.

Increased citizen participation has resulted in diminishing public resistance toward offender reentry. This dramatically improves an offender's potential for success, and can achieve a reduction in recidivism.

Complementing the COSA process is the offender responsibility plan, also known as the ORP. The ORP is our case management system for coordinating, delivering and tracking the range of treatment and work readiness development services specific to the offender's strengths and needs.

This document evolves over time to reflect the offender's progress, including pre-release services such as vocational assessment, housing readiness, benefits eligibility, transitional planning, and post-release supervision and services, behavioral assessment and therapy, substance abuse treatment, employment, parenting, and other family obligations.

Over the past few years, we have formed critical new partnerships with offender-serving agencies throughout Vermont. These include the Department of Labor, the Social Security Administration, the Veterans Association, the judiciary, and other Agency of Human Services such as the Economic Benefits Division, the Office of Child Support, the Department of Health, and the Office of Alcohol and Drug Abuse.

Through these initiatives, we have fundamentally changed the reentry service delivery system in Vermont. We have incorporated the leveraging of stakeholder relationships on both an interagency and interpersonal level in to our case planning and reentry practices.

Many of the individuals who have reentered with the assistance of community-based support cite the critical role these services have played in allowing them to get their footing and get out of prison.



Targeted reentry services, such as employment and housing assistance, have also stemmed directly from our community justice reentry program. The organization of our own department has started to grow and recognize and appreciate how work is enhanced through direct citizen involvement in the reentry process.

We have begun to change the conversation about returning offenders in local communities from how can we keep them out of our town to how can we make them a part of our community so they will not do harm again?

During these difficult fiscal times, the Vermont legislature has recognized the importance of this work and recently has appropriated funding for these community-based strategies.

Challenges we continue to face are lack of funding to support ongoing efforts and complement the state funding. In addition, we have not been resourced to conduct an empirical, longitudinal study to produce data to complement the anecdotal evidence that already exists.

Submitted along with my testimony is documentation on two cases of higher level offenders who have been successfully reintegrated into the community using the COSA process.

In closing, I want to thank you for allowing me the opportunity to address this Committee and I also want to thank you for the partnership that we have enjoyed with the Federal Government in the past that spawned this program for us.

Thank you.

[The prepared statement of Mr. Pallito appears as a submission for the record.]

Chairman LEAHY. Thank you. Well, as you know, in a small state like ours, we all have to work together. Thank you.

Our next witness, Le'Ann Duran, is the Reentry Project Director of the Council of State Governments Justice Center. She oversees the center's efforts to facilitate smooth and successful transition of individuals from prisons back to their communities. It includes managing the National Reentry Resource Center, which provides assistance to Second Chance Act grantees and applicants.

Prior to that, she was administrator of the Michigan Office of Offender Reentry. That program, the Michigan Prisoner Reentry Initiative, was nationally recognized for its effectiveness, its comprehensive approach to reentry.

She received her bachelor's degree from Texas Tech University, master's degree from Colorado State.

Please go ahead.

**STATEMENT OF LE'ANN DURAN, REENTRY PROJECT DIRECTOR, JUSTICE CENTER, COUNCIL OF STATE GOVERNMENTS, NEW YORK, NEW YORK**

Ms. DURAN. Thank you, Chairman Leahy and members of the committee, for holding this hearing on Second Chance Act. My name is Le'Ann Duran. I am the Director of the National Reentry Resource Center.

When Second Chance was passed in 2008, I had been working for 5 years to design and implement a comprehensive reentry effort, called the Michigan Prisoner Reentry Initiative.

Second Chance came at a critical time in Michigan's work. For the first time, there was Federal legislation and a clear message from Congress that improving reentry policy and practice is vital to public safety. This message fueled public and legislative support for a reentry initiative which enhanced public safety by reducing recidivism and ultimately allowed the state to reduce its prison population by 12 percent, saving an estimated \$900 million.

The establishment of a National Reentry Resource Center was an important step to advance the reentry field. Congress and the Bureau of Justice Assistance are strengthening the government, community and faith-based organizations receiving Federal funds to ensure the most effective use of those investments.

Following a highly competitive process, the Bureau of Justice Assistance was awarded the contract for the National Reentry Resource Center to the Council of State Governments Justice Center.

We have learned a great deal from our work with Second Chance grantees, though it is still very early in the process. First off, Second Chance programs have been incredibly popular. In the first year of the program, over 950 applicants applied for Second Chance funding. Of those applications, 67 grantees were funded in 2009, spanning 31 states.

This demand establishes Second Chance as one of the most competitive justice programs, with an only 7 percent funding rate in the first year. And based on the number of calls we fielded regarding 2010 programs, demand for funding is likely to grow.

Two program types were funded in 2009. The first category, demonstration projects, were for state, local and tribal governments interested in advancing their reentry initiatives. The city of Baltimore received a demonstration grant and is implementing a project for 60 youth identified as high risk. The program primarily focuses on delivering enhanced case management.

In Oklahoma, 200 high risk men returning to Oklahoma City will be given the opportunity to live in a transitional facility, where they will receive the treatment and programs they need to be successful upon release.

The second category, mentoring grants, is available to nonprofit organizations to advance prosocial support.

In Texas, Volunteers of America is using their grant to work with incarcerated mothers and will provide one-on-one mentoring and case management services.

The Resource Center and its partners have designed three core strategies to respond to grantee needs, as well as the field at large. First, we are creating a number of Web-based tools to help practitioners help themselves.

Second, we are building a more cohesive, knowledgeable reentry field by facilitating peer-to-peer learning. And third, we are providing individualized assistance to grantees to respond to their emerging needs.

We are also working with the Urban Institute to develop an online What Works library for practitioners.

So the big question is, how is it going? While still very early in the process, the program is thriving, both in the immense demand for grants, the establishment of a resource center for the field, and the early accomplishment by the first cohort of grantees.

It is apparent there is good work happening and a growth in the number of agencies that are working together to address the needs of this population.

It is an exciting time to be working in the field of reentry, which has existed for barely more than a decade, but is vibrant with innovation.

Also, through this process, a few challenges have emerged. First, around program design. Grantees in the reentry field are becoming increasingly familiar with the body of evidence about strategies that reduce recidivism, but they continue to struggle with translating these concepts into practice.

The Second Chance Act is a strong step to providing the reentry field with guidance about smart program interventions, but it will take time to turn the battleship of corrections in a data-driven direction.

Secondly, tracking recidivism. The Second Chance Act sets appropriately high expectations for sites to receive Federal funding to reduce recidivism, but grantees will need assistance understanding what to measure and how to obtain and routinely track quality information.

BJA and the Resource Center will continue to work closely with grantees to measure the effects on recidivism, but it will take time.

We appreciate your leadership and your work through Second Chance. It is a monumental step in changing how we address prisoner reentry. We hope you will reauthorize the program quickly to further advance the field at large and help expand our knowledge about reentry evidence and the practice of smart reentry strategies nationwide.

Thank you.

[The prepared statement of Ms. Duran appears as a submission for the record.]

Chairman LEAHY. Thank you very much.

As our next witness is from Rhode Island, I will turn to the person who knows the most about Rhode Island on this committee, Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Mr. Chairman. It is a great honor for me to have the chance to introduce Sol Rodriguez, and, also, to recognize A.T. Wall, who is our Director of Corrections, and who has come down to be with Sol Rodriguez today.

Sol has a long and distinguished career with community organizations in Rhode Island. She has run the group that is now called Open Doors for, I think, 8 years. Before that, it was called the Family Life Center. I go way back with this organization and was present at the creation.

I think the thing that is so great about today is that the Director of Corrections came down to be with her today. It shows how closely integrated our corrections infrastructure is with our community infrastructure, and it is extraordinarily important, because there are certain neighborhoods in Rhode Island that just get hit particularly hard by the outflow of the prison system.

There are neighborhoods where one in four 18 to 35-year-olds on the street are under the supervision of the Department of Corrections. So you can imagine how many people that neighborhood is forced to absorb week after week, month after month.

So I am delighted to welcome to her to this committee and to share her testimony with all of us.

Welcome, Sol, and thank you for—Ms. Rodriguez, and thank you for being here.

**STATEMENT OF SOL RODRIGUEZ, EXECUTIVE DIRECTOR,  
OPEN-DOOR, PROVIDENCE, RHODE ISLAND**

Ms. RODRIGUEZ. Thank you, Senator Leahy, distinguished members of the committee. My name is Sol Rodriguez, and I want to thank you for inviting me here to speak.

I am the Executive Director of OPEN-DOOR, a nonprofit organization based on Rhode Island.

OPEN-DOOR was established in 2002 with the sole purpose of working with prisoner coming home from incarceration and their families. We have a long history of supporting this prisoner reentry program, and we're familiar with the many challenges they face.

Successful reentry is difficult, even for those people who are deeply committed to the process. Everyone who comes to see us is on the threshold of change. However, without critical resources, their chances of success are slim to none.

In Rhode Island, individuals are given no more than a bus ticket back home once they are released from prison. People coming out of the prison system return to fractured relationships, little or no financial resources, few job prospects, and because of their criminal record, they face legal discrimination in employment and in housing, and mounting debt.

Organizations that serve similar populations leave out this population because of their need to meet performance metrics and the perception that they pose risk and that they cannot achieve as other groups can.

Even organizations that we work with often find it difficult to provide services for this population due to their multi layered needs. Throughout the years, OpenDoors has managed to open the doors for many of our folks who are coming home.

Many of our clients have doors slammed on them over and over again and, as you can imagine, this becomes fairly demoralizing. Incarceration rates in this country continue to escalate at an alarming pace. There are nearly 2.4 million people in prison, one out of 31 individuals is under some kind of supervision.

As a country, we spend \$69 billion on prisons, and Rhode Island spends an average of \$40,000 per inmate.

Despite this, people continue to return back to the prison system at disturbing rates. Over 62 percent of people released from Rhode Island prisons return back within 3 years.

Another consequence is the loss of revenue to the state and their lack of participation in work during the peak age, of 21 to 35. The long-term consequence is that these individuals will not be able to pay into Social Security. If this trend continues, we will bear the financial burden of these people for a long time to come with services, such as services for the homeless, urgent medical care, public assistance to families and costs associated to children in state custody, as well as the cost of public safety.

We need to act to address this situation, as it isn't going to go away. There is proof that recidivism can be successfully remedi-

ated, as in Michigan, where significant investment by the state reduced the recidivism rate from 55 percent to 38 percent.

But a lot of states do not have the resources to do what Michigan did. At OPEN-DOOR, we are attempting to find some solution to this problem. We offer a one-stop center for people coming out of prison, and we see approximately, 1000 people a year, that come to our Center for the first time. This isn't counting the people who continue to come back for services.

We prepare individuals for release from incarceration at the adult correctional facility and we offer programs, like employment and housing preparedness, job search, financial literacy, one-on-one mentoring, civic participation, financial literacy, computer classes, and recovery services.

We work to build relationships with these individuals, or provide a safe place for them in the community; so that when they come out, they are not drawn back to those previous relationships and destructive social environment that they came from.

We provide mentoring through the Second Chance Act; this includes relationship-building activities and community events and support groups, and one-on-one mentoring.

Our mentors and mentees receive extensive training and assessment in order to make successful matches.

We started our program back in January 2010 and to date, we have 10 matches. Many of our mentors are formerly incarcerated people who have been doing well and want to be mentors to other people. And so we screen folks to make sure that they are doing very well in the community before we they are allowed to be mentors.

But we are looking for mentors in the community that are business people, and are employers. We want to begin to create those relationships long term.

In closing I want to make some recommendations. I want to recommend that you need to continue to allocate funding, specifically for formerly incarcerated individuals. Direct funding for this population is critical.

Commitment to this issue long term critical, as well. This issue is not going to go away, and we need the money long-term and the resources long-term.

Allow for nonprofits like us to receive direct funding to do other things besides mentoring. It is pretty clear that a good job is the single largest factor in determining someone's success out here, and to stay out of prison.

Addressing the pipeline into prison is another critical need. We need to begin to look at innovative programs that really help support people and provide essential interventions before they go to prison, so that we can address the flow into to prison.

I want to thank you very much for your consideration and support, not just for the work that we do, but for the work around the country.

Thank you very much.

[The prepared statement of Ms. Duran appears as a submission for the record.]

Chairman LEAHY. Thank you very much. I neglected to do it before. I was reading the testimony prior to the hearing. I was struck

with a number of the case studies that Mr. Pallito had. And an article without objecting, I will put those additional things, the case studies and all as intended. They bring home what real people are and what real people do, and I will put that in the record as part of your testimony.

Thank you. And for the record, they were case studies of offenders that had particularly violent past histories.

Chairman LEAHY. That is what I understand.

Now, David Muhlhausen is a senior policy analyst at the Heritage Foundation Center for Data. He has testified before Congress on several previous occasions about law enforcement grant programs, particularly the COPS program.

One of the staff suggested you are here so often, we should give you one of these permanent name plates.

He received a Ph.D. in public policy from the University of Maryland Baltimore County, bachelor's degree in political science. Just to say, he is from Forestburg. He is currently an adjunct professor of public policy at George Mason. Please go ahead, Doctor.

**STATEMENT OF DAVID MUHLHAUSEN, SENIOR POLICY ANALYST, CENTER FOR DATA ANALYSIS, THE HERITAGE FOUNDATION, WASHINGTON, DC**

Mr. MUHLHAUSEN. Thank you. My name is David Muhlhausen. I am a senior policy analyst in the Center for Data Analysis at the Heritage Foundation. I thank Chairman Patrick Leahy, Ranking Member Jeff Sessions, and the rest of the Committee for the opportunity to testify today on the Second Chance Act.

The views that I express in this testimony are my own and should not be construed as representing any official position of the Heritage Foundation.

Congress' desire to weigh in on prisoner reentry programs. In 2008 alone, over 735,000 prisoners were released back into society. Federal, state and local governments need to operate effective reentry programs. Preventing former prisoners from returning to prison is a worthy goal.

When Congress first passed the Second Chance Act I in 2008, little was known about the effectiveness of prisoner reentry programs. The same holds true for today. We simply do not have enough knowledge about what works and what does not work.

A major goal of reauthorizing the Second Chance Act I should be to greatly enhance our knowledge about the effectiveness of these programs. For this reason, I will outline five years to the successful evaluation of these programs.

First and foremost, Congress needs to expressly mandate in the reauthorization of the Act the experimental evaluation of prisoner reentry programs. By experimental evaluation, I mean evaluation that uses random assignment to select individuals for treatment and for other individuals to go into control groups. This method is considered the gold standard, because random assignment is most likely to yield valid estimates of program impact. Less rigorous designs yield less reliable results.

When Congress creates programs, especially state and local programs, we need to make sure that these programs are—when they

are evaluated, they undergo large-multisite evaluations, so that is my second point.

These programs funded by the Federal Government are not funded, are not funded. They are implemented across the entire Nation. Because Federal grants fund agencies and programs across the Nation, we need to have multisite national large-scale evaluations.

Third, Congress needs to provide instructions on the types of outcome measures that will be used to assess effectiveness. When assessing the impact of reentry programs, the most effective measure or the most important measure is recidivism. While intermediate measures, such as finding employment and housing, are important, these outcomes are not the ultimate goal of reentry programs.

If former prisoners continue to commit crimes after being released from prison, then successful; intermediate measures, while important, still matter little to judging how effective programs are.

Fourth, Congress needs to institute procedures that will encourage government agencies, often possessing entrenched biases against experimental evaluation, to carry out these studies.

One recommended method is that not later than 1 year after the preauthorization of the Act and annually thereafter, the Departments of Justice and Labor be required to individually submit to Congress a report on the progress their departments are making in evaluating the programs authorized under the Act.

Thirty days after the report is submitted to Congress, it should be made available on the department Websites.

Last, Congressionally mandated evaluations, upon completion, must be submitted to Congress in a timely manner. Thirty days after any evaluation is submitted to Congress, they should be made available, also, on the department's Websites.

Prisoner reentry programs need to be rigorously evaluated to determine their effectiveness at reducing recidivism. I believe the need for more evaluations transcends political party lines. Both Democrats and Republicans should agree on this issue.

Policymakers should not implement prisoner reentry programs, because advocates for Federal funding believe these programs are effective. There has to be a solid base, a scientific knowledge demonstrating that these programs work. Thus, Congress needs to do more to ensure that the reentry programs it funds are rigorously evaluated.

That is all. Thank you.

[The prepared statement of Mr. Muhlhausen appears as a submission for the record.]

Senator WHITEHOUSE [Presiding.] Thank you, Mr. Muhlhausen.

Our next witness is Howard Husock. He is the Vice President of Policy Research and Director of the Social Entrepreneurship Initiative at the Manhattan Institute.

Mr. Husock has been widely published on housing and urban policy issues, and has spoken in policy forums sponsored by the Federal Government and the States of California and Massachusetts.

Prior to his time at the Manhattan Institute, Mr. Husock worked at Harvard University's Kennedy School of Government, and was a broadcaster and documentary filmmaker at WGBH in Boston, Massachusetts, which reaches into Rhode Island.

Mr. Husock graduated from Boston University School of Public Communications and was later a fellow at Princeton University's Woodrow Wilson School of Public and International Affairs. And we welcome him to the committees.

Mr. Husock.

**STATEMENT OF HOWARD HUSOCK, VICE PRESIDENT, POLICY RESEARCH, MANHATTAN INSTITUTE FOR POLICY RESEARCH, NEW YORK, NEW YORK**

Mr. HUSOCK. Thank you so much, Senator Whitehouse, Ranking Member Sessions, and members of the committee.

In addition to the policy research we do at the Manhattan Institute, we've long tried to play a problem-solving role in social problems, especially as they affect our cities.

In that context, we recently returned our attention to the daunting problem addressed in the Second Chance Act, that is, successful prisoner reentry, a goal we understand to be central to the safety of our cities and the restoration of healthy family life in households in which parents, often fathers, have been incarcerated.

It is not a minor problem, not when 700,000 individuals are released from prison annually and 44 percent are re-arrested just within 1 year.

It is an important problem, but at the same time, we believe that in reauthorization, the Second Chance Act can still be improved. And in that context, I'd like to share with you some reflections on the institute's experience in helping to establish, fund and operate a reentry program in cooperation with the city of Newark, New Jersey, whose results to date and the results of similar programs have convinced us that for such efforts to be successful, they must emphasize employment. We call it rapid attachment to work, and we believe that there are aspects of the way that rapid attachment program in Newark is funded, particularly ITSA, AART, EMT, use of matching private dollars and the way it's managed, particularly its emphasis on pay for performance among social service providers, which can all be useful elements of a reauthorized Second Chance.

The Newark initiative began, when, in response to then the mention of prisoner reentry in 2006, his 2006 inaugural address, the Manhattan Institute approached Newark Mayor Cory Booker.

We agreed to work together on a program for newly released ex-offenders. Staying out of trouble in the first few weeks, the mayor believed, was crucial and the employment can be the hub around which a non-criminal life can be organized.

His vision has borne fruit. Thanks to \$2 million in Federal funds, matched by \$3 million in private philanthropic funds, a small portion of which has allowed the institute to provide loaned executive help to the city of Newark.

Six agencies in Newark today compete with each other to help place those coming out of prison rapidly into jobs. They are proving successful, even in today's difficult economy; 58 percent of the 1,000 plus program a intended seen to date have been placed in jobs with an hourly wage of more than \$9 an hour. And to date, after more than a year, only 8 percent of all participants have been re-arrested.



At the same time, crime in Newark, which historically has involved violence often between two individuals with criminal records, has dropped sharply and, in March, the city saw its first month in 40 years without a murder.

Other work-oriented reentry programs are showing similar progress. In New York, the Ready, Willing and Able program, which includes employment as a central part of it, must be evaluated by a Harvard University sociologist who found that 3 years after release, its clients have 30 percent fewer arrests than a comparison group.

In addition, the Ready for Work Program, which was a Department of Labor model program, found that between 2003 and 2006, recidivism in this work-focused program was reduced by 34 to 50 percent.

There is no accountability without clear results, however. And in Newark, in keeping with the best thinking on our performance management, we are tracking and comparing the placement records of individual job providers, job placement providers, and by tying compensation to results, we believe that we can affect improved performance.

In other words, it is our view that there is an emerging formula for successful reentry, a formula based on work as intended, performance management, and private matching funds. And a reauthorized Second Chance Act, which gave top priority to demonstration projects, incorporating these approaches, could play a key role in influencing the billions spent by state corrections, parole and probation programs, which will continue to play the lead.

There is one additional element which the Act could encourage, which has yet to be incorporated into reentry programs, but is also a significant barrier, and half of them owe back child support payments. It is a problem that only gets worse when they are in person.

The typical prison parent owed \$10,000 when he goes behind bars, \$20,000 when he leaves, because wages can be garnished to pay child support. Such arrearage is a powerful deterrent to workforce participation.

A reauthorized Second Chance Act, however, could encourage its demonstration programs to use these child support payments constructively by linking reductions in arrearage to getting and keeping a job; and, with the permission of either parent involved, playing a role in family life.

America's criminal justice system, including reentry through parole, has historically been and will continue to be primarily the province of state government and current budget deficits leave little room for a Federal role.

That is why it is especially important for a reauthorized Second Chance Act to support those model programs that could influence reentry practice broadly.

The best way to do that, the Manhattan Institute believes, is to emphasize and encourage those programs focused on rapid attachment to work.

Thank you very much.

[The prepared statement of Mr. Husock appears as a submission for the record.]

Chairman LEAHY. Thank you very much.

Commissioner, you talked about the Department of Corrections working with the cities and towns in Vermont. The largest one is 38,000 people, the smallest is just about 38 to try to get them to reintegrate.

I know it is not easy. You are asking people to spend scarce time and resources to bring ex-offenders into the communities. How do you get communities to engage in this kind of reentry effort?

Mr. PALLITO. I think I would best describe it as an evolving conversation. It was a conversation that really started between the Department of Corrections and our local communities many, many years ago, and, through persistent and consistent messaging, we really tried to shift the attitude.

Interestingly enough, the city of Barre, that you have mentioned that my wife is from, has an undue burden of corrections offenders that come and go within the city, and saw an opportunity to engage the Department of Corrections.

So rather than keep the conversation about keep them out of our neighborhood, keep them out of our neighborhood—as one of the panelists mentioned earlier, 90 percent of offenders are coming back to communities, and that is a fact, 95 percent in some states.

The city of Barre in Vermont—

Chairman LEAHY. So in other words, you are dealing with a reality, whether you want to or not.

Mr. PALLITO. Absolutely, absolutely. And so the city of Barre really has started to turn that conversation and engage the Department of Corrections. And I have gone to several community meetings. I would describe the first as I asked my wife to be my security guard on the way out to the second, where the mayor and I have forged a very positive relationship and we have partnered with the city.

One of the messages that I have consistently said, as the commissioner and the deputy commissioner and the commissioner before me, is the State of Vermont is not going to solve this issue on its own. We need the community, we need community partners to step up, to be engaged, and to help us out with this issue.

Chairman LEAHY. Thank you. Ms. Duran, let me ask you. This morning, the Justice Department's Office of Inspector General released a report on the department's management of prisoners reentry program. They found the department did not adequately monitor and evaluate some of the reentry programs. They couldn't determine whether they were successful in reducing recidivism. So I hope the Justice Department will immediately be moving to consider and implement some of the IG's recommendations.

Now, the good news is the inspector general's report focused on programs that were in place before the Second Chance Act. They said that the Second Chance Act was—that those programs are better designed, although it is too early to tell thoroughly.

So what steps do you take to make sure, especially with this report, and I realize it just came out this morning, to make sure the Second Chance Act Grantees and those who administer them are doing it right?

Ms. DURAN. I think you are right that the Second Chance Act was a response to some of the design flaws we observed through

SVORI and some of the other Federal reentry grant programs that have gone before, and we've had the opportunity to learn a lot from those previous initiatives and have incorporated those into the way that Second Chance is being implemented.

For example Second Chance is a competitive grant effort. States and local governments, for demonstration projects, are required to engage in planning prior to receiving the award, and demonstrating their readiness to receive the Federal funds is key to being winning applicants. SVORI was a blanket grant program.

Also, each state is different and needs to allow for the flexibility of their differences in terms of their populations that they are managing the size of their communities. Vermont is clearly different than California.

Second Chance provides an opportunity for states to be innovative in the way that they respond to their unique needs with their population and with their community, and we have given those grantees that flexibility through Second Chance.

Chairman LEAHY. Speaking of what she said about the states being different, Commissioner, if I can go back to you just for a moment.

You must talk with your counterparts in other parts of the country, I assume.

Mr. PALLITO. Correct.

Chairman LEAHY. You probably both do. Do you find, and this may seem like an easy question, but I'm curious. Do you find any states you talk with where they say, "Hey, we're all set up. We've got plenty of state funding to do the kind of programs we want."

Mr. PALLITO. Absolutely not. I think every Department of Corrections in the country is under constant budget pressure. One of my personal frustrations as the Commissioner of Corrections is as the incarcerated population grows, the easy answer to a budget reduction is to cut the Department of Corrections staff or close a facility that is then responsible for that incarceration. Then the liability, in the end, frankly, lands with the Commissioner's office. That's my personal opinion.

So unless we are more creative in terms of how we use incarceration, to make sure that on the front end, we are very stringent in what we use, and then on the back end to make sure that we do very comprehensive offender reentry planning so that we do not just simply let offenders out and they cycle back in.

But all states, I think, face the same exact challenge.

Chairman LEAHY. Well, keep talking to our mayors and our boards of aldermen and tell them.

Mr. PALLITO. I will, as long as they will keep listening to me.

Chairman LEAHY. Thank you.

Jeff.

Senator SESSIONS. Thank you, Mr. Chairman. This has been a subject of tremendous national interest for a long time. It is not the first time it has been brought up.

In fact, the 1960s and 1970s, there was a belief that prison was no good for anybody. Judges, really, a lot of them just refused to send people to jail. Crime rates surged, and it took into the 1980s for the Nation to realize that our hopes and wishes and dreams did not match reality.

I remember a study in the late 1970s that I kept in my desk when I was United States attorney that dealt with these reentry programs and recidivism rates, and the net of it was, I will summarize, it compared a prison in which it—it was a very Spartan prison, very little recreation, job training, benefits, and one that had all kinds of education and other programs, and the recidivism rate was the same.

That is hard to believe, but, in fact, if we knew how it worked, why have we not already figured out how to do it? It is very hard, very hard.

Mr. Husock, you suggest that you got a 30-percent reduction. Even your numbers probably make me a bit suspicious. But if you got a 20-percent reduction in recidivism rate, I would give you an A, if you could maintain that and replicate that in another place. That is tremendous, really, if we get 20 percent fewer people recidivating, having to go to jail and be put in jail and cannot support their families, cannot hold down a job.

And my instincts are that this thing of giving a person a job immediately out of prison would not be of benefit. That makes sense to me.

Well, we create these programs. Here, the Chairman made reference to the Department of Justice programs. The inspector general audit came out today. Not a good audit. Bad. This is what they found. The IG found that the OJP did not adequately define key terms essential for determining whether program goals are met; did not require grantees to identify baseline recidivism rates needed to calculate changes in recidivism; and, did not analyze performance measurement data.

As a result of these design flaws, neither OJP nor the inspector general could definitively determine the effectiveness of OJP's grant programs in reducing recidivism. Well, this is not good.

Ms. Duran, you mentioned the Second Chance Act that we did 2 years ago was different, but they said the same design flaws the report does for existing "it."

Mr. Muhlhausen, do you know how many existing reentry programs are funded by the Federal Government? Do we have any idea of how many state programs exist out there? And in your opinion, are they effectively monitored so we can determine what actually works and what clearly does not work?

Mr. MUHLHAUSEN. Well, I think getting a hard count of how many reentry programs are out there is going to be a little difficult. But I would say that this report does not inspire confidence in Office of Justice Programs.

The fact that they are giving out money without effective performance monitoring protocols in place, no clear definition of how to measure recidivism, these are basic things that should be done. And that is why I think that—

Senator SESSIONS. One of the things that I complained about is that these programs get to pick their population. They can pick the target population.

It is kind of like an insurance company, it seems to me, that cherry-picks healthier patients.

Is that the way you would analyze that concern?

Mr. MUHLHAUSEN. Well, yes. I have seen this happen with Department of Labor job training programs, where it is called creaming, where they find—they select individuals that they are going to monitor that are most likely to succeed and the individuals who are the hard cases they sort of do not track. And so they end up inflating their performance data.

So that is why I think we need to have the National Institute of Justice do a lot of multisite, randomized experiments to find out whether these programs work.

Senator SESSIONS. I agree, because the states are spending billions, as you said, Mr. Husock, on these programs and our money is chicken feed compared to what states are spending.

So if we could help them identify programs that actually work, even if it is 10, 20 percent better than their current program, and they could apply their resources more effectively, this would be a smart role for the Federal Government. Would you agree, Mr. Husock?

Mr. HUSOCK. I could not agree more. And when we talk about how many reentry programs are out there, every state has got divisions of parole. That is a reentry program. Why do we not want to spend the money that we are spending already more effectively?

For instance, should not parole officers be judged by not how many people they lock up again, but how many they place in employment? Maybe we want to change the way we manage the core programs that we are already running.

But certainly, I think the Second Chance Act can point in the right direction, but it is never going to substitute.

Senator SESSIONS. My time is up. And I would just say I thank my colleagues, who are interested in this subject. It has just sort of been an interest of mine ever since I have been prosecuting cases from the mid-1970s on, and 90-percent of the people are convicted that go to trial.

The question is how long they serve and what is going to happen to them. So I think we are striving to accomplish something worthwhile. I would like to see us focus more on identifying what works through rigorous focus and help our states by giving that information so they can better utilize the resources that they have.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you very much.

Senator Whitehouse.

Senator WHITEHOUSE. Mr. Chairman, since I will be presiding at the end, I am here until the bitter end, I would be delighted to yield to Senator Franken.

Chairman LEAHY. Senator Franken.

Senator FRANKEN. I would like to thank you, Mr. Chairman, and thank you, Senator Whitehouse. This also has been of great interest to me for a long time.

And I want to thank you, Mr. Muhlhausen, for urging that we have more scientific look and more comprehensive data on this, because that is—I just think we should do that on everything, because that is going to pay off to see what works, because we really kind of do not have a choice, do we?

What percentage of—I think, Mr. Pallito said the number was 90 to 95 percent—is that right? And I think, Mr. Muhlhausen, you

said that releasing offenders into society increases crime. Now, you are not suggesting we just do not release people, are you?

Mr. MUHLHAUSEN. No, no. I am just saying, it is just a statement of fact that we have high recidivism rates, and so the national consequence of releasing offenders from prison is we are going to get more crime.

Senator FRANKEN. But the alternative is just locking them up and throwing away the key, and we do not do that either, do we?

Mr. MUHLHAUSEN. No, we do not. Obviously, what I would say is that while serious and violent offenders should serve lengthy amounts of time in prison—

Senator FRANKEN. Obviously.

Mr. MUHLHAUSEN. [continuing]. A lot of people who are released deserve to get some sort of help in transitioning back into society and I think, hopefully, if we identify what works and we can replicate what works, we will have some good things to talk about in future reauthorization of the Act.

Senator FRANKEN. There is another premise here that you could look at, too, which is maybe the fewer prisoners we have in the first place, that the less increase in crime there would be when you release less prisoners.

What I am kind of getting at is maybe—do you understand what I am saying? I am saying that maybe, say, you did early childhood education. So we invested in people early in life, and so there were fewer criminals, or maybe even caught juvenile, youth offenders earlier.

Ms. Duran, in your testimony, you outlined several programs funded by the Second Chance Act, including those that assist youth offenders with histories of substance abuse and mental health needs.

Can you talk more about specifically which services work best for this population both during incarceration and after?

Ms. DURAN. I think it is very important that step, when trying to change the likelihood that someone is going to commit a crime in the future, that we have a good understanding of what the risk and needs are of that individual. And the most important thing that we can do is match their risk and their needs to the services that are going to help them change their behavior and make different choices when they come back home.

Certainly, critical services that have shown to make a difference are effective substance abuse treatment and mental health services, both during incarceration and upon release.

It is most important that these services are delivered in the community, where they have to struggle with sobriety and maintaining a crime free life.

As Mr. Husock also described, rapid attachment to employment is also critically important. The Second Chance Act gives grantees the flexibility to design their programs to target the services and supports that they feel will make a difference for their population based on what they know about their risks and needs of who they are working and be able to fund those programs and put them in place with their grant.

Senator FRANKEN. I do not know about—Senator Sessions has left. I do not know about the study he carries around and whether

it would meet Mr. Muhlhausen's very, very high degree of rigor. There is no way of knowing, is there?

In 2008, the Minnesota Department of Corrections enacted a pilot reentry program, called the Minnesota Comprehensive Offender Reentry Program, or MCORP. MCORP provides its clients help in finding a job, housing assistance, chemical abuse treatment and a variety of other services.

It is still a premium program, but results from the first year are incredibly encouraging. They have reduced re-arrest rates by 37 percent.

I was out for Husock's testimony and I am sorry about that. But I think we have found things that work and meanwhile, there are prisoners—I am going to end this soon—there are prisoners who are getting out tomorrow and the next day and the next day and the next day. They are getting out.

And I agree with Dr. Muhlhausen that we have to do science-based research on this. But in the meantime, they are getting out. And in the meantime, let us use what seems to be anecdotally working.

And I am just going to wrap up right now, but I would like to—I am on the Help Committee and I want to do a hearing on early childhood education. And what I want—I do not want to have the largest prison population in the world. And, yes, Dr. Muhlhausen, we have recidivism; and, yes, when You release prisoners, there is more crime.

But I think the alternative starts very, very early. But today we are talking about what works on recidivism, and I thank you all for your work.

Thank you, all, all of you, for your work.

Senator WHITEHOUSE. Thank you, Senator Franken.

Could you, Ms. Rodriguez, give us your take on what measures are appropriate to evaluate the effectiveness of the program that OpenDoors manages and what improvements in measurement would you recommend from where you are?

Ms. RODRIGUEZ. I very much agree with Mr. Muhlhausen about more scientific, more rigorous studies with regards to recidivism.

We actually do administer a criminogenic needs and risk management and risk assessment, for those people in the mentoring program.

We administer it when they first get involved in the program and we will administer it a year from now to see how effective—whether we have been able, to both the risk and the need of the individual.

We also track whether people are re-incarcerated.

Our project is quite small, so we're able to track re-incarceration. We do that with many of our programs. Unfortunately, we do not have the capacity internally to do a scientific sort of data analysis of recidivism in our state, which I think is pretty important to do, but I think most states just do not have that capacity or resources.

So putting some resources in that would be really helpful, I think we all welcome that sort of analysis. It would give us some sense of how things are working.

All I can say is we worked very much—we are small states. We see a lot of people at our—I see a lot of people multiple times. I

see people trying. All I can talk about without the science behind it is how hard it is for people and how hard they try.

So we have been working hard with these individuals, but we would welcome a scientific study of recidivism.

Senator WHITEHOUSE. Ms. Duran, one of the—I'm a big supporter of and was, as I said earlier, in kind of at the creation of the Family Life and traveled out of state to visit other places as we were working with some of the African-American churches to try to get this underway.

The objection that comes is that these people are criminals. They have broken the social contract. Why should we make any particular effort on their behalf? There are two responses to that that I have heard. One is that from a cost perspective, it is in everybody's interest to try to avoid re-incarceration. Whether or not you particularly like the individual, you are better off if they are working and paying taxes than if they are incarcerated at the ACI and absorbing your tax dollars.

The second is that the way in which offenders emerge from our prisons and get distributed among our neighborhoods is far from even. There are particular neighborhoods that receive a real onslaught of returning, reentering prisoners. And for the sake of the people in those neighborhoods, forget the people who are returning, for the sake of the people who are in those neighborhoods and who are law abiding, it is important that there be the social services so that they can continue to have a safe and orderly life and deal with the issues that a very big returning formerly incarcerated population presents.

Would you evaluate for me those thoughts and add any that you would care to add?

Ms. DURAN. I think you are right. I mean, at the end of the day, successful reentry is about what happens in those neighborhoods and in those communities. And this is a complex social challenge.

Senator WHITEHOUSE. And to the taxpayer, right?

Ms. DURAN. Yes. Absolutely. Certainly, getting communities involved in coming up with creative and innovative solutions to reducing crime in their neighborhoods and their communities is a critical part of what will make for effective reentry planning.

It has to start with the communities, in partnership with Departments of Corrections and community supervision agencies. And I think Vermont and Commissioner Pallito described a very, very great example of the way the community can work with state and local government and corrections agencies to come together on these challenges, because no one neighborhood and no one government agency can do it alone.

Second Chance has set a very clear example, requiring this type of collaboration to be in place prior to submitting grant applications, which I think is a strong step in sending the message that the collaboration is essential, because this challenge is so enormous.

Senator WHITEHOUSE. We have talked a lot about the metrics and the statistics and the measurements demographically during the course of this hearing. The time of the hearing is concluding.



What I would like to do is ask Ms. Rodriguez, if you would, to end on a note of what the possibilities are here; and, if you do not mind, you know Andres Idarraga (ph)?

Ms. RODRIGUEZ. Yes, I do.

Senator WHITEHOUSE. Would you mind relating for the record here, just briefly, his story, how he came to you and where he ended up?

Ms. RODRIGUEZ. Andres Idarraga is a young man who spent about 7 years in prison. He had a pretty extensive criminal history prior to his incarceration, but he was a very bright young man.

We met Andres when he was released from prison. He might have been out about 6 months. We were working, actually, in the office to restore voting rights for people on probation and parole, and Andres was somebody who was not going to be able to vote for 30 years.

So he would be 60 when he could vote, and he was very interested in voting and interested in getting involved in the work that we were doing.

Eventually, we ended up hiring Andres, who was actually a URI student. Subsequently, Andres applied to Brown and was accepted to Brown, received a bachelor's degree from Brown and is currently going to Yale Law School.

Andres is one guy. He is a pretty amazing guy, but there are many young men like Andres. I have to say, I was just talking about another young man who is headed to law school and who is also one of ours who has come through the center and we have helped.

There is so much potential among these young men and most of them are relatively young. So turning our backs on them is—

Senator WHITEHOUSE. So it is a fair point to make, in your experience anyway, that in addition to the sort of negative argument of preventing future bad behavior and preventing the cost of recidivism, there are some real scars in this.

So there are some real stars in this surprising population who can, when they turn their lives around, accomplish great things. There are some extraordinary people that are in our prison systems with extraordinary talents, and we need to harness those talents and encourage those talents and help those people achieve what they can achieve.

This is part of what we do. We really try to provide them the space and believe in them so that they can continue to improve their lives. And Andres is one young man, but there are many young men in Rhode Island and I'm sure across the country.

So these services are critical. Yes, we need to measure them. But they are critical services, and I believe we have no choice, really. We have no choice as a society. They are coming back to our communities. They are coming back to families. And we are just creating more of a burden on families and communities if we do not help them become productive members of society.

Senator WHITEHOUSE. Well, I appreciate very much everyone's testimony here today.

We will keep the record of this hearing open for 1 week. So if anyone wishes to supplement their testimony or provide additional

testimony or comments into the proceeding, they have that 1 week to do so.

I am grateful to those of you who have taken the trouble to come here. Some of you have traveled some distance to come here. This has been very helpful. I think this is a vitally important issue for us to address.

To digress just for a minute, when you think about what we spend on incarcerating people and when you think about what we spend policing the general population and when you think that the real kind of crux was where those people come out of the issue population, that should be kind of a gap where we have to struggle for funding when so much tax revenue goes to support our prison system and our general policing.

I think it is a wise investment and we look forward to trying to make that investment as smart as we can make it.

Thank you all very much. The hearing is adjourned.

[Whereupon, at 3:54 p.m., the hearing was concluded.]

[Questions and answers and submissions for the record follow.]

## QUESTIONS AND ANSWERS

Senator Benjamin L. Cardin  
Questions for the Record

“The Second Chance Act: Strengthening Safe and Effective Community Reentry”

Andrew A. Pallito

Last fall, I chaired a hearing on the importance of reducing the recidivism rate. At that hearing, I discussed the added barriers that are created when housing and employment are hard to find for people returning from jail or prison. In your written testimony you talked about the importance of forming partnerships and targeting reentry services for employment and housing. I believe that collaboration across disciplines and jurisdictional boundaries is an important component of successful jail reentry, and in recent years, we have seen an increase of creative and productive partnerships between jails and law enforcement, probation, faith-based organizations, mental health clinics, victim advocate groups, the business community, and a variety of other social service and community providers. Without these collaborations and targeted services I believe it's harder for people to reenter society successfully.

### 1. How important is housing for successful reentry?

Response by Andrew A. Pallito, Commissioner, Vermont Department of Corrections

As Senator Leahy so rightly acknowledges, the challenges associated with securing housing and employment add an extra dimension of difficulty to the reentry process. The importance of stable housing is paramount. Housing is a critical cornerstone upon which people build, or rebuild, their lives. The lack of a suitable residence either prevents otherwise eligible incarcerated individuals from being released or, at best, significantly undermines their likelihood for successful transition to community life. Since there are so many critical and interdependent components of the reentry process, it is absolutely vital that the reentering individual has the structure provided by consistent and appropriate housing from which to navigate the often daunting maze of release conditions and services.

In Vermont, the lack of suitable housing for release-ready inmates is a major problem that comes at a correspondingly high cost, both fiscally and socially. An August 10, 2010, snapshot of our incarcerated population shows that nearly 9% of Vermont's inmates are currently remaining in prison primarily for lack of an approved residence.

And while it is not as easy to calculate the social impact of this separation from community, it is no less significant. The longer people are away from networks of support and accountability, the harder it becomes to construct the relationships necessary to sustain a successful life outside of prison.

The Vermont Department of Corrections designed and implemented our community-engagement approach to the reentry process through the Federal assistance provided by the FY2002 Serious and Violent Offender Reentry Initiative (SVORI). Fittingly, our proposal was entitled, “A Job and a Place to Live”. Housing and a job are simply non-negotiable prerequisites to getting and staying out of prison. Now that we have built a statewide infrastructure of solid municipal partnerships, collaborative protocols with offender-serving agencies and restorative justice capacity through citizen involvement, we are fully poised to get the most traction possible from housing resources when and where we can develop them, but it remains a defining challenge of the reentry process.

Senator Benjamin L. Cardin  
 Questions for the Record  
 "The Second Chance Act: Strengthening Safe and Effective Community Reentry"

2. What steps have you taken in your community to ensure released inmates have housing when they return to the community - specifically when they do not have family or friends to live with?

Response by Andrew A. Pallito, Commissioner, Vermont Department of Corrections

The Vermont Department of Corrections (VT DOC) has long recognized the importance of ensuring that released inmates have stable housing, especially when there are no appropriate options with family or friends. In State Fiscal Year 2004, we received our first Transitional Housing Legislative General Fund Appropriation, and this support has steadily increased over the years due to the associated positive indicators.

In keeping with our community partnership approach, the VT DOC sub-grants these monies to local housing organizations that also provide case management services for these clients in close connection with our field supervision program.

Attached is a report which details the Transitional Housing Programs funded by the VT DOC and includes the population served, services provided, exclusionary criteria and current vacancies (the report also includes the transitional housing sites currently in various exploratory and feasibility stages). As you will see, we have well-utilized housing partnerships with community-based providers throughout the state.

In addition to funding beds and case management, the VT DOC also funds Housing Search and Retention Specialist positions at several community-based housing authorities and organizations. These critical positions directly assist with placing offenders in permanent housing and provide the resources to ensure a sustained residence, including the Ready to Rent training curriculum, landlord-tenant mediation and life skills development.

3. What can the federal government do to encourage increased partnerships between all stakeholders in communities?

Response by Andrew A. Pallito, Commissioner, Vermont Department of Corrections

In our experience, locally generated solutions to community-based problems usually work best. This is because the collective wisdom required to develop sustainable approaches resides predominantly within the immediate stakeholder network. The State can provide the structure and strategic direction to harness the capacity inherent in communities. And the Federal Government can provide states with the leadership and much-needed financial resources for directly supporting local, collaborative, comprehensive and evidence-based approaches to reentry.

This relational structure ensures that best practices on a community level get the funding, management and evaluation they need to produce improved outcomes and advance our understanding of what works in the challenging area of offender reentry. This is the foundation of our approach in Vermont, as reflected in our Mission Statement: "In partnership with the community, we support safe communities by providing leadership in crime prevention, repairing the harm done, addressing the needs of crime victims, ensuring offender accountability for criminal acts and managing the risk posed by offenders."

Senator Benjamin L. Cardin  
Questions for the Record  
"The Second Chance Act: Strengthening Safe and Effective Community Reentry"  
Response by Andrew A. Pallito

We are in the business of building public safety partnerships with communities. Our business plan is sound. Like any other investment for the future, it needs capital to realize its potential. The State of Vermont Legislature has recognized and honored this to the extent it can, but it is simply not enough to recalibrate the imbalance of housing supply and demand.

Specifically, Vermont is in demonstrable need of residential substance abuse treatment beds for male offenders. This cohort remains in prison far longer than necessary for lack of approved housing, and returns to prison more often than necessary due to the lack of treatment options delivered in a residential setting.

Vermont would benefit tremendously from a statewide system of halfway homes with strong vocational engagement components. Our existing transitional housing capacity realized a revenue savings of over \$1 million dollars in the last fiscal year alone. With the addition of halfway homes located in our highest reentry volume areas, we would see a dramatic decline in reincarceration rates coupled with an increase in employed offenders.

Lastly, providing residences for the "hard to house" population including sex offenders, mental health, and developmentally disabled individuals has proved too resistant to even the most concentrated efforts in many cases, so dedicated housing stock for these individuals is a pressing need.

Federal assistance would allow Vermont to turn the tide on the two most pressing issues of reentry-- housing and employment. Once seeded, these strategies will generate compounded savings through reduced recidivism while improving public safety and trust, growing roots to support stronger communities and brighter futures for the individuals we supervise.

Attachment A - Vermont Department of Corrections, Transitional Housing Report

**Senator Benjamin L. Cardin**  
**Questions for the Record**  
**"The Second Chance Act: Strengthening Safe and Effective Community Reentry"**  
**Vermont Department of Corrections**  
**Transitional Housing Programs**  
**State Fiscal Year 2011**  
**Page 1 of 5**

26

Grantee	Population Served	Special Requirements	Services Provided	Sex Offenders Accepted?	Number of Vacant Beds	Location	Grantee Contact Info
CVCAC (Central Vermont Community Action)	6 female beds	None	housing search assistance, case management, resource and referral, advocacy, support individual and family development, limited transportation, rental subsidy, home visits, budgeting	Case by Case	0	Barre	Dianne Munson 479-1053 ext. 221, 917-1938 (cell) dmunson@CVCAC.org, (DOC - Tom Dunn)
Return House	10 male youth beds	Under 22	Substance Abuse, Mental Health, Employment Assistance, Transportation, Case Management	Case by Case	0	Barre	Jill Remby, 476-7755; 240-7978 (cell) jill@returnhouse.org, (DOC - Tom Dunn)
Barre CJC (Community Justice Center)	5 beds	None	COSA reentry support, case management, information referrals, permanent housing	Yes	Begin 7/10	Barre	Lori Baker, 476-0276, lbaker@bjcjc.org (DOC - Tom Dunn)
Phoenix House	5 male beds	Substance Abuse Recovery, Over age 21	Case management, recovery & educational groups, information referrals	Case by Case	0	Bellows Falls	James Henzel, 257-4677, jhenzel@phoenixhouse.org (DOC - Rae Hirst)
Bennington Coalition for the Homeless	7 beds	None	Life skills training, employment assistance, community service referrals, assistance obtaining permanent housing	Case by Case	0	Bennington	Sandy Skidmore 442-2424, 753-7205 (Thatcher House), 802-688-9733 (cell) saskbanks@comcast.net (DOC - David Hirst)
Seall, Inc.	10 male beds	None	Case management, information referrals	Case by Case	Begin 9/10	Bennington	John Winchester, 345-1711, 206dps@myfairpoint.net (DOC - David Miner)
Phoenix House	4 female beds	Substance Abuse Recovery, Over age 21	Case management, recovery & educational groups, information referrals	Case by Case	2	Brattleboro	James Henzel, 257-4677, jhenzel@phoenixhouse.org (DOC - Lisa Trowl)
Phoenix House	10 male beds	Substance Abuse Recovery, Over age 21	Case management, recovery & educational groups, information referrals	Case by Case	3	Brattleboro	James Henzel, 257-4677, jhenzel@phoenixhouse.org (DOC - Lisa Trowl)
Morningside House	3 beds	Age 18+	Case Management for substance abuse, mental health, and employment assistance referrals	No	1	Brattleboro	Paul Capelan, 257-0066 ext. 102; paul.morningside@gmail.com (DOC - Lisa Trowl)
Dismas House	6 beds	Satellite prgrn, 3/4 house	Peer support, information referrals	No	1	Burlington	Kim Parsons, 658-0381, kim@dismasco.vermont.org (DOC - Debbie Thibault)

**Senator Benjamin L. Cardin**  
**Questions for the Record**  
**"The Second Chance Act: Strengthening Safe and Effective Community Reentry"**  
**Vermont Department of Corrections**  
**Transitional Housing Programs**  
**State Fiscal Year 2011**  
**Page 2 of 5**

Grantee	Population Served	Special Requirements	Services Provided	Sex Offenders Accepted?	Number of Vacant Beds	Location	Grantee Contact Info
Northern Lights	11 female beds	None	substance abuse, mental health, family assistance, mentoring, employment assistance, transportation, case management, information referrals	Case by Case	0	Burlington	Atera Foco, 862-4386, 324-0629 (cell), <a href="mailto:afoco@towardcenter.org">afoco@towardcenter.org</a> , (DOC - Terri Cameron)
Phoenix House	18 male beds	Substance Abuse Recovery, Over age 21	Case management, recovery & educational groups, information referrals	No	Begin 10/10	Burlington	James Henzel, 257-4677, <a href="mailto:jhenzel@phoenixhouse.org">jhenzel@phoenixhouse.org</a> (DOC - Deb Thibault)
Pathways to Housing	10 beds	Psychiatric & SA needs	intensive case management, permanent housing voucher, MH & SA treatment, vocational support, basic life housing needs	Yes	Begin 7/10	Burlington (all Chittenden County)	Hilary Melton, 881-9819 (cell), 662-1313 <a href="mailto:hmelton@pathwaystohousing.org">hmelton@pathwaystohousing.org</a> (DOC - Debbie Thibault)
NEKCA (Northeast Kingdom Community Action)	2 beds	None	Case management, information referrals, life skills, employment assistance	Yes	Begin 7/10	Hartwick	Kim Baxter, 334-7316-802-535-0029 (cell), <a href="mailto:kbaxter@nekcavt.org">kbaxter@nekcavt.org</a> (DOC - Lynn Bushey)
Pathways to Housing	10 beds	Psychiatric & SA needs	intensive case management, permanent housing voucher, MH & SA treatment, vocational support, basic life housing needs	Yes	Begin 7/10	Montpelier (all Washington County)	Hilary Melton, 881-9819 (cell), 662-1313 <a href="mailto:hmelton@pathwaystohousing.org">hmelton@pathwaystohousing.org</a> (DOC - Tom Dunn)
Montpelier CJC (Community Justice Center)	5 beds	None	COSA reentry support, case management, information referrals, permanent housing	Yes	Begin 7/10	Montpelier	Vyenne Byrd, 223-9606, <a href="mailto:VByrd@montpelier-vt.org">VByrd@montpelier-vt.org</a> (DOC - Tom Dunn)
NEKCA (Northeast Kingdom Community Action) - Judd House	4 male beds	None	Case management, information referrals, life skills, employment assistance	No	0	Newport	Stephanie Bowen, 334-8221, <a href="mailto:sbowen@nekcavt.org">sbowen@nekcavt.org</a> (DOC - Carl Davis)
Newport CJC (Community Justice Center)	5 beds	None	COSA reentry support, case management, information referrals, permanent housing	Yes	Begin 7/10	Newport	Jesse Tatum, 323-1431, <a href="mailto:jtatum@kingdomjustice.org">jtatum@kingdomjustice.org</a> (DOC - Carl Davis)
NEKCA (Northeast Kingdom Community Action)	3 beds	None	Case management, information referrals, life skills, employment assistance	Yes	Begin 7/10	Peacham/Barret	Kim Baxter, 334-7316-802-535-0029 (cell), <a href="mailto:kbaxter@nekcavt.org">kbaxter@nekcavt.org</a> (DOC - Lynn Bushey)
Dismas House	3 beds	Satellite prgm, 3/4 house	Peer support, information referrals	No	1	Rutland	Terese Black, 775-5539, <a href="mailto:terese@dismasofvermont.org">terese@dismasofvermont.org</a> (DOC - Phil Fernandez)
Rutland County Housing Coalition	13 beds	None	Case management, information referrals	No	0	Rutland	Deborah G. Hall, 775-9286, <a href="mailto:deborah@rchevt.org">deborah@rchevt.org</a> (DOC - Phil Fernandez)

**Senator Benjamin L. Cardin**  
**Questions for the Record**  
**"The Second Chance Act: Strengthening Safe and Effective Community Reentry"**

**Vermont Department of Corrections**  
**Transitional Housing Programs**  
**State Fiscal Year 2011**  
**Page 3 of 5**

Grantee	Population Served	Special Requirements	Services Provided	Sex Offenders Accepted?	Number of Vacant Beds	Location	Grantee Contact Info
Samaritan House	4 beds	None	Case management, information referrals	No	0	St. Albans	Linda Ryan, 373-6505, lindaryan3@comcast.net, (DOC - Kristin Prior)
St. Albans CJC (Community Justice Center)	5 male beds	None	COSA reentry support, case management, information referrals, permanent housing	Yes	Begin 7/10	St. Albans	Marc Wennberg, 524-7006, m.wennberg@stalbanst.com (DOC - Kristin Prior)
NEKCA (Northeast Kingdom Community Action) - Aerie House	4 female beds	Substance Abuse Recovery	Case management, information referrals, life skills, employment assistance	No	0	St. Johnsbury	Kim Baxter, 334-7316, 802-535-0029 (cell), kbaxter@nekavt.org (DOC - Lynn Bushey)
NEKCA (Northeast Kingdom Community Action) - Judd South House	5 male beds	None	Case management, information referrals, life skills, employment assistance	Case by Case	3	St. Johnsbury	Kim Baxter, 334-7316, 802-535-0029 (cell), kbaxter@nekavt.org (DOC - Lynn Bushey)
Covered Bridge	6 male beds	Substance Abuse Recovery; Faith based	Substance Abuse Services, Transportation, Vocational Employment, Basic Life Skills Training (budgets), Life Enrichment, Mental Health Referral, Case management, Family Services, Basic Needs (Housing, Food)	Case by Case	1	St. Johnsbury	Steve Clark, 748-6948, sclark@covered-bridge.org (DOC - Lynn Bushey)
NEKYS (Northeast Kingdom Youth Services)	1 bed	Under 22	Life skills training, counseling, employment assistance, community service referrals	Case by Case	0	St. Johnsbury	Hope Lakus 748-8732 hope@nekys.org (DOC - Lynn Bushey)
John Graham Shelter	1 bed	None	Life skills training, employment assistance, community service referrals, assistance obtaining permanent housing	No	0	Vergennes	Elizabeth Ready, 877-2677, Elizabeth@johngrahamshelter.org, (DOC - Steve Hoke)
East Allen Dismas House	9 male beds	None	Peer support, information referrals	No	0	Winooski	Richard Gagne, 655-0300, richard@dismasvermont.org (DOC - Debbie Thibault)
Total available beds in FY 10 = 118							
Total available beds in FY 11 = 185							



**Vermont Department of Corrections  
Transitional Housing Programs  
State Fiscal Year 2011  
Page 4 of 5**

**Senator Benjamin L. Cardin  
Questions for the Record  
"The Second Chance Act: Strengthening Safe and Effective Community Reentry"**

In addition to funding beds and case management, DOC also funds assistance with housing acquisition. Department of Corrections priority is to place offenders in permanent housing. Below is a list of grantees that provide housing placements.

Grantee	Population Served	Special Requirements	Services Provided	Sex Offenders Accepted?	Number of Vacant Beds	Location	Grantee Contact Info
BROC (Bennington Rutland Opportunity Council)	1 Housing Search Specialist	None	Housing search and retention support, case management, information referrals, landlord/offender mediation, Renter 101 training curriculum	No	0	Bennington	Lindsay J Stratman, 447-7515, lstratman@broc.org, (DOC - David Miner or Jessica Delorenzo)
Burlington Housing Authority	2 Housing Search Specialists	with minimum 1 year until max, sign addendum to lease with landlord upon being housed, participation in housing retention services	Housing search and retention support, case management, information referrals, landlord/offender mediation, Ready to Rent training curriculum	Case by Case	0	Burlington	Mike Ohler, 864-0538 ext. 212, 802-324-3088 (cell), mohler@burlingtonhousing.org, Jean Sienkewicz, 864-0538 ext. 202, 802-355-1471, jsienkewicz@burlingtonhousing.org, (for women offenders only) (DOC - Debbie Thibault)
NEKCA (Northeast Kingdom Community Action)	1 Housing Search Specialist	None	Housing search and retention support, case management, information referrals, landlord/offender mediation, Renter 101 training curriculum	Yes	0	St. Johnsbury & Newport	Kim Baxter, 334-7316, 802-535-0029 (cell), kbaxter@nekcavt.org, (DOC - Carl Davis & Stu Gladding)

**Vermont Department of Corrections  
Transitional Housing Programs  
State Fiscal Year 2011  
Page 5 of 5**

**Senator Benjamin L. Cardin  
Questions for the Record  
"The Second Chance Act: Strengthening Safe and Effective Community Reentry"**

Projects in Development	Population Served	Special Requirements	Services Provided	Sex Offenders Accepted?	Number of Proposed Beds	Location	Grantee Contact Info
Phoenix House	20 male beds	Substance Abuse Recovery, Over age 21	Case management, recovery & educational groups, information referrals	No	20 - In development, seeking site	Berlin/Barre (Central VT)	James Henzel, 257-4677, jhenzel@phoenixhouse.org (DOC - Tom Dunn)
Dismas House	10 beds	None	Peer support, information referrals	No	10 - In development	Hartford	Christie Binzen, 765-4655 cbinzen@yahoo.com (DOC - Mark Devins)
Blue Spruce House, Inc.	30 male beds	Substance Abuse Recovery, Over age 21	Case management, Information referrals, SA treatment	TBD	30 - In development	Mt. Holly	Will Hunter, 226-7852 bluesprucehouse@gmail.com (DOC - Mike O'Malley)
NEKCA (Northeast Kingdom Community Action) - Judd 2	4 male beds	None	Case management, Information referrals	Yes	4 - In development, seeking site	Newport	Kim Baxter, 334-7316, 802-535-0029 (cell), kbaxter@nekcavt.org, (DOC - Carl Davis)
Community Resources for Justice	30 beds	None	Case management, Information referrals, SA treatment	Yes	30 - In development	TBD	Liz Curtin, 617-482-2520 Ext. 110, lc Curtin@crjustice.org (DOC - Mike O'Malley)
Covered Bridge	4 female beds	Substance Abuse Recovery, Faith based	Substance Abuse Services, Transportation, Vocational/Employment, Basic Life-Skills Training & Enrichment, MH Referral, Case mgmt, Family Services	Case by Case	4 - In development	St. Albans	Sieve Clark, 748-6948, sclark@covered-bridge.org (DOC - Kristin Prior)

**Senator Benjamin L. Cardin**  
**Questions for the Record**  
**“The Second Chance Act: Strengthening Safe and Effective Community Reentry”**

**Sol Rodriguez**

Jeremy Travis, President of John Jay College of Criminal Justice, testified before the House Subcommittee on Commerce, Justice, and Science last year, and in his written testimony he discussed “invisible punishment.” Invisible punishment is a phrase that describes the continued punishment of ex-felons and a way to social exclude them from the community. For example many ex-felons are barred from certain jobs, benefits and other forms of civic participation. You spoke about this in your written testimony, stating that inmates return to the community where “legal discrimination” occurs in employment and in housing.

**1. What types of invisible punishment or legal discrimination have you witnessed as ex-felons return to their communities?**

People with criminal records face a host of obstacles that make successful reintegration difficult, including legal discrimination, racial discrimination, and persistent sanctions. Stable employment and housing are the two most necessary resources for reentry; however, people with criminal records face discrimination in both of these areas. In addition, many other types of obstacles exist. Through our work with the formerly incarcerated, and our extensive research on the subject, OpenDoors has gained a comprehensive understanding of many forms of invisible punishment, including discrimination in housing and employment, unfair probation laws, voting rights, court debt, and denial from basic services.

**Housing**

A wide variety of discrimination is allowed in the private housing market, but one of the most burdensome and easily alleviated obstacles in this area is public housing discrimination. The federal government sets a minimum level of discrimination by which all housing authorities must abide. The following are the federal restrictions on housing for people with records:

- i. Has been evicted from federally subsidized housing for drug related criminal activity in the last three (3) years. This restriction may be shortened if the member has undergone supervised drug treatment or the circumstances leading to the eviction no longer exist.
- ii. Was ever convicted of manufacturing methamphetamine on the premises of federally assisted housing.
- iii. Is subject to lifetime registration as a sex offender.
- iv. Is currently using drugs or if their pattern of drug use may threaten the health, safety, or right to peaceful enjoyment of other residents.
- v. Is currently abusing alcohol or has a pattern of abuse that may threaten the health, safety, or peaceful enjoyment of the other residents.

- b. Public Housing Authorities and landlords have the authority to terminate or evict residents for any new criminal activity.
  - i. All tenants and family members may be evicted for one individual's illegal activity even if the tenant could not foresee or control that behavior (*Dep't of Housing and Urban Dev. V. Rucker*, 535 U.S. 125, 136(2002) Supreme Court Case).
  - ii. The exclusion of an offending household member can be required as a condition of admission or continued benefits.

In addition to these, state housing authorities are authorized to impose higher levels of discrimination. In Rhode Island, the Providence Housing Authority denies access for anyone involved in criminal activity within the past ten years.

### Employment

Preferential and discretionary discrimination is the most common type of employment discrimination. Employers simply decide to not interview or hire individuals based on the applicant's record. Experiments by Princeton sociologist Devon Pager demonstrated that test applicants with a single felony conviction were called back to job interviews at half the rate as those with no conviction, all else being equal.

In addition to these stigmas, people with records are restricted legally from entering certain professions. Licensing boards for a wide variety of occupations impose absolute or discretionary discrimination based on record. For example, in Rhode Island, 70 occupations require a license.<sup>1</sup> Forty-six allow for some form of legal discrimination based on a criminal record or "poor moral character."<sup>2</sup> Fourteen of the forty-one "blue" or "semi-white" collar jobs can discriminate—including five of the ten fastest growing occupations in Rhode Island.<sup>3</sup>

### Probation and Due Process

The overuse of probation has become a major reentry obstacle. Probation was initially designed as a form of rehabilitation, but has since become the default disposition for defendants. The probation population has increased from one million to over four million in the last thirty years, with approximately 1.34% of the adult population in the US currently on probation.<sup>4</sup> This includes a rise of cases in which probation is used instead of incarceration, as well as an increase

---

<sup>1</sup> State of Rhode Island General Laws, Title 5, Chapters 1-76, (Accessible at: <http://www.rilin.state.ri.us/Statutes/title5/index.htm>)

<sup>2</sup> Ibid.

<sup>3</sup> RI Department of Labor and Training, *2012 Opportunities: Rhode Island's Occupational Outlook for 2012*, (Accessible at <http://www.dlt.ri.gov/lmi/pdf/opportunities.pdf>).

<sup>4</sup> Bureau of Justice Statistics, *Annual Probation Survey, Summary Findings* (2009).

in the use of probation in addition to incarceration. With excessively high caseloads and few resources, the system largely serves to monitor for re-arrest.

Because of high case-loads, probationers must participate in a chaotic and overtaxed system in which noncompliance can lead to re-incarceration. This leads to frequent misapplications of probation revocation for "technical violations," non-criminal conduct that violates the conditions of probation. Clients are re-incarcerated for not going to substance abuse treatment in cases in which they could not afford the program or were not accepted into the program. Clients are re-incarcerated for missing appointments because of work. Clients are re-incarcerated for disagreements with probation officers. One client of our center was a model of good behavior and consistently looking for employment. He was living in a court-ordered residential drug treatment center, even though he had been sober in prison for several years and did not exhibit any signs of relapse. He was reincarcerated for three months, just as he was lining up job interviews, because of a letter he wrote to the facility concerning their treatment methods.

In addition to the problem of "technical violations," there is also the risk of false conviction. People on probation and parole have fewer legal rights to due process when charged with new crimes. For these people, probation can be used as a tool for prosecuting new criminal charges. While this system makes prosecution easier for police and prosecutors, it also increases the likelihood that people trying to reestablish pro-social lives will be falsely convicted and incarcerated. This is a serious problem often overlooked in the discussion about reentry. Due process is reduced in a variety of ways:

1. People on probation are not guaranteed a trial to be incarcerated or sentenced for a new crime. According to the governing US Supreme Court cases<sup>5</sup>, defendants have the right to a hearing, with significantly relaxed rules of evidence, reduced right to confrontation, and lacking many of the essential elements of a trial, such as a jury.
2. The minimum standard of evidence used in the hearing has not been well defined federally, and as such states are free to use far lower and ultimately insufficient standards for determining guilt.
3. Because people on probation are already under sentence at the time of arrest, courts often employ far more stringent bail practices, holding defendants without bail even for nonviolent misdemeanors. Defendants held without bail are much more likely to plea bargain to crimes they did not commit, and they find it much more difficult to help defend themselves against the criminal charges.
4. Because probation revocation is a much easier prosecutorial pathway than prosecuting the new charge on its own, prosecutors are encouraged to rely heavily on the probation revocation process to adjudicate the new criminal charge. "Back-end-sentencing," as termed by Jeremy Travis<sup>6</sup>, describes the process of

<sup>5</sup> *Morrissey v Brewer* 408 U.S. 471, 92 S Ct 2593 (1972), *Gagnon v Scarpelli* 411 US 778 (1973)

<sup>6</sup> Travis, Jeremy. 2007. Back-end sentencing: a practice in search of a rationale. *Social Research*, 72 (2).

using the revocation process to adjudicate a new criminal charge. This reduces due process significantly because even if a defendant is eventually tried for the charge itself, they have often already had their probation revoked. An acquittal at trial does not result in overturning the probation sentence, and they will continue to serve time in prison for the charge even after acquittal.

While it is understandable that probation and parole, as part of their punitive and supervisory nature, involve restricting some of the subject's legal rights, this process must be weighed against the danger of increasing false prosecution.

#### **Voting**

Inability to vote affects all other forms of discrimination because the afflicted party cannot seek redress through the political process. In addition, denying the right to vote creates a sense of alienation from the rest of society. Thirty-five states still deny the right to vote to individuals not in prison, depending on probation or parole status. This not only affects a large number of people, an estimated four million nationally, but the laws specifically disenfranchise certain communities (those with high rates of incarceration), removing much of these communities' political power. An OpenDoors study from 2004 found that 40% of the adult African American men in certain neighborhoods in Providence were disenfranchised.<sup>7</sup>

#### **Court Debt**

High debt burdens can make reentry difficult and can even lead to reincarceration. These financial obligations include child support, restitution, probation and parole fees, legal representation fees, court fees, and court fines. States across the country have been raising these fees to try to increase revenue during the economic recession. A Council of State Governments study reported that parents in one state owed an average of \$20,000 in child support upon release from prison. With two thirds of those detained in prison reporting incomes of less than \$12,000 a year, this debt can be nearly impossible to pay. Many states will reincarcerate individuals for this debt, exacerbating the challenges of reentry and often undoing any progress towards reintegration. An OpenDoors study found that 18% of all incidents of jail in Rhode Island were for court debt alone, and that on average these people owed \$826.<sup>8</sup> In Rhode Island, individuals were arrested on warrants for failure to appear at a single court payment review date and were regularly incarcerated for a week or more. These sorts of aggressive collection practices against indigent defendants not only present a serious obstacle towards reentry, but they can cost the state more than can feasibly be collected from the defendant.

#### **Denial of Services due to Stigma**

People with criminal records face a wide variety of obstacles as they try to reenter society. A large number of services and opportunities will use their discretion to deny access. For example:

---

<sup>7</sup> Political Punishment: The consequences of felon disenfranchisement, OpenDoors, 2004.

<sup>8</sup> *Court Debt and Related Incarceration from 2004-2007*. OpenDoors, 2008.

- Colleges are generally very cautious about accepting people with criminal records, and will deny otherwise very qualified applicants.
- People with records have difficulties receiving small business loans.
- Physicians will sometimes deny medication, such as pain medication, to people with records because of fear they will abuse the medication.

### **Should there be policy changes to discourage such punishment?**

These obstacles are in part motivated by reasonable concerns, such as protecting community members from exposure to crime, improving an employer's hiring practice, raising revenue, and improving the quality of public housing. However, to the extent that they reduce public safety and increase the chances of recidivism, they have the opposite overall long-term affect. In addition, when such rules become excessive or arbitrary, they cease to provide any benefit and only serve to unnecessarily re-punish people for past actions. The benefits of each policy should thus be weighed against the cost to the individual and to society overall, as well as the efficacy of possible compromise reforms.

### **Housing**

Blanket exclusion based on criminal record is a problem for the overall public good. People have to live somewhere. Excluding someone from one residency only pushes them to another, likely less stable residency. In particular, rules that keep people from living with family members are particularly de-stabilizing. The OpenDoors report "We are Here to Stay" describes these destabilizing effects. Of the formerly incarcerated individuals that participated in our focus group, half had been forced into housing situations with people that robbed them or did drugs in the house. Two-thirds had lost housing because of a family member's incarceration. Ultimately, individuals who become homeless will present much higher risks and burdens to society and themselves. In one study, 38% of homeless parolees violated parole, versus 5% of non-homeless parolees.<sup>9</sup> In contrast, one study demonstrated that homeless individuals provided with permanent supportive housing experienced a 44% decrease in incarceration and a 56% decrease in emergency room use.<sup>10</sup>

Like many other jurisdictions, the Providence Housing Authority of Providence, Rhode Island, employs more stringent exclusionary criteria than the federal government, excluding people for ten years after any felony criminal conviction from housing units or the Section 8 program. Although people can appeal decisions, decisions are rarely reversed. In 2004, 52% of all denials were due to criminal convictions, and only 8% were reversed. Because of these obstacles, people with criminal records and often their families cannot participate in one of the most fundamental social service programs in the US—publicly subsidized housing.

<sup>9</sup> Nelson, Deess, Allen. *The First Month Out: Post-Incarceration Experiences in New York*. Vera Institute, 1999.

<sup>10</sup>"The Benefits of Supportive Housing," Corporation for Supportive Housing, February 2004.

### Employment

As demonstrated in the Devon Pager study discussed above, employment discrimination based on record (and race) is real, pervasive, and often unwarranted. In this study, the person with the single drug felony conviction was not even provided the opportunity to try to compensate or explain the conviction, in comparison to someone with the same qualifications and no conviction. Biases such as these can actually have negative effects on the labor market—they disqualify otherwise good candidates for employment, potentially causing less qualified people to be hired.

Our personal experiences with clients have shown this inequity to be true and very harmful. Our job specialist works daily with individuals seeking employment, many of whom are turned away time after time solely because of their record. One recent client was recently hired at a chain department store. The manager selected him due to his good interview and excellent resume and experience, and they discussed the existence of his criminal record in the interview. However, the owner of the store soon decided the client had to be fired because of the record. These stories are simply the lay of the land for people searching for employment with a record, and such experiences quickly become demoralizing and frustrating.

### Probation and Parole

While there is good justification for altering due process for people on probation, the current system is far too punitive in many states. Unnecessary incarceration is not only a huge reentry obstacle; it is a large cost to the state. One study places estimates that 30%-50% of new incarcerations are for probation violations.<sup>11</sup>

The US Supreme Court stated that while a probation violation hearing need not fulfill all of the due process standards applied to a criminal trial, a probationer's conditional liberty "includes many of the core values of unqualified liberty," and its termination inflicts a 'grievous loss' on the probationer.<sup>12</sup> In addition, a probationer can no longer be denied due process on the grounds that probation is an 'act of grace.'<sup>13</sup> The limits of these guidelines have not been clearly established, leaving it up to the states to determine how little due process is allowable. Unfortunately, in many states, simply being arrested becomes sufficient justification for a probation revocation.

OpenDoors' report *Freeing the Exonerated: Back-End Sentencing and Probation Reform* includes research on revocation procedures in twelve states. Attorneys in many states indicated that probation is usually revoked upon arrest, and that charges are dealt with through the violation system before the trial system. Three states, including Rhode Island, use the lowest standard of proof available, 'reasonably satisfied,' for violation hearings, which is lower than the

<sup>11</sup> Joan Petersilia, *Probation in the United States*, 22 Crime & Justice 149, 155-156 (1997).

<sup>12</sup> *Gagnon v Scarpelli* 411 US 778 (1973)

<sup>13</sup> *Morrissey v Brewer* 408 U.S. 471, 92 S Ct 2593 (1972),



standard of proof employed in most civil proceedings. In Rhode Island, the only legal definition of this standard equates it with ‘probable cause.’<sup>14</sup>

The low level of due process provided by many states leads to a high probability of incorrect convictions. The most egregious examples from Rhode Island involve cases in which the defendant is acquitted at trial. For example, Rhode Islander Jodi Johnson was sentenced to serve nine years in prison as a probation violator due to a new robbery charge. At the violation hearing, which had a very low standard of evidence, he was sentenced to prison for violating probation. The judge was reasonably satisfied that he had been the one that committed the robbery. However, at his criminal trial, Mr. Johnson was found not guilty of the robbery charges. Despite this acquittal, his probation remained revoked, and he was forced to remain in prison.

### **Voting**

Disenfranchisement has a host of negative consequences on individuals and their communities, and is fundamentally opposed to our nation’s principles.

The loss of voting rights as a result of incarceration impacts entire communities. In highly impacted communities across the state, disenfranchisement is more than a personal punishment. Rhode Island’s current law effectively reduces the political power of entire communities in both local and statewide elections. For example, in some neighborhoods in Providence, 25% of the adult male population is disenfranchised.

Basing our democracy on an unfair criminal justice system erodes our democratic principles. Racial profiling and other inconsistencies in our criminal justice system threaten the fairness of our democracy. While 60 percent of those disenfranchised are white, Blacks are 10 times more likely, and Latinos 4 times more likely than whites to be barred from voting.

Voting is both a right and responsibility of citizenship. Taxation without representation should be a thing of the past—approximately four million citizens living and working in the US are subject to taxation but were barred from voting. We should be doing everything we can to increase voter participation. Research finds that voters are 50% less likely to recidivate than non-voters. Restoring voting rights provides people a way to reintegrate and identify with our society’s laws.

Parents of young children in disadvantaged neighborhoods are the most likely to be disenfranchised. 40 percent of young black men on the Southside of Providence were barred from voting. Without the vote, how can they stress the importance of civic participation and democracy to their children? As a result, we lose an opportunity to model good citizenship to future generations and we deny the political voice of entire families. In contrast, restoring the right to vote is one of the most effective ways to counter all other forms of invisible punishment, because it returns more political power to those actually affected.

---

<sup>14</sup> RI Supreme Court, *Broccoli v Kindelan* 9S A.2d 67, one of the earliest cases in which the RI standard is cited, uses the phrase “that the facts before gave reasonable and probable cause” to describe the RI standard.

### **Court Debt**

While the idea of charging people who have committed crimes with fines and fees is often justified, the practice can quickly become problematic. Fee assessment can be unduly high and impractical due to indigency, and collection can be overly stringent or punitive. All of these can lead to serious collateral consequences such as homelessness, losing employment, and re-incarceration, and can actually make assessment more expensive for the state than it is worth.

In Rhode Island, for example, in 18% of the cases, the state spends more money to incarcerate individuals than the total amount that individual owes to the state. The Providence district court operates a full-time collections court, with some individuals attending every month for years trying to pay back the same several hundred dollar debt. Assessing the debt is important—the state collects a total of around 23 million dollars a year from court costs alone. However, the collection process is overly punitive, resulting in around 2,000 incarcerations a year for court debt. As described in the OpenDoors report, one individual spent 45 days incarcerated on a bail of \$230 he couldn't pay.<sup>15</sup> Another individual described losing his apartment and job because of being incarcerated for the court debt. While it is important to make efforts to induce defendants to pay their debt, this need does not justify a collections practice that assesses a high amount of debt to indigent defendants and then unnecessarily incarcerates them because they are unable to pay.

### **2. How can the federal government help remove such barriers to successful reentry?**

The federal government can help achieve a large reduction in invisible punishment and reentry obstacles both directly and indirectly. Some of the reforms discussed below relate to potential federal legislation. However, many of the reforms must take place at the state level. As with other issues, the federal government could take a leadership role by creating incentives to encourage state reforms. As was done with the Race to the Top education initiative, specific reforms can be encouraged with grant opportunities. For example, the federal government could offer a probation reform grant offered to states that demonstrate success in implementing some of the well-tested best practices around probation supervision.

The best way to reduce the collateral consequences of a criminal record and incarceration is by preventing them in the first place. Unfortunately, any reforms to decrease discrimination after incarceration are at best only going to take the edge off an already incredibly difficult reentry process. Individuals are returning to high-risk neighborhoods in the midst of an economic recession. They have few employable skills, likely at best a high school degree, and any number of personal obstacles to overcome, from former drug addiction, to post-traumatic stress disorder, to lack of strong family and parental relationships. Many face strong racial discrimination. While some individuals will have the personal or social resources to overcome these obstacles if given a chance, for many it is difficult. After months or years of perseverance to get or maintain low-paying work with little chance of advancement, many lose hope.

---

<sup>15</sup> Court Debt and Related Incarceration 2004-2007, OpenDoors Report.

In addition to looking at collateral consequences, the federal government should do whatever it can to promote justice reinvestment. Investing some of the billions of dollars spent on corrections into education and social services will prevent some of the incarcerations before they happen.

The Justice Reinvestment Act will hopefully create the groundwork for implementing these reforms across the country. Best-practices such as Drug Court, risk assessment, and “swift and sure” probation sanctions have been proven to be able to reduce prison populations and reduce correctional costs. However, to truly ensure that prison populations are reduced, incentives should be offered to states that decrease prison and probation populations. As was done with welfare reform, federal subsidies could be offered to states based on results. For example, instead of offering grants to fund Drug Courts, the federal government could offer incentives to states that decrease their prison population within three years, suggesting the use of drug courts as a best-practice for achieving these reductions.

### **Housing**

The federal government should ensure that there is available, affordable housing for people with criminal records. The federal government should set restrictions on the exclusionary criteria used by agencies receiving federal funds, to ensure that housing agencies are not as restrictive as agencies such as the Providence Housing Authority. The federal government should also supplement existing public housing with transitional and supportive housing designed specifically to house people with criminal records.

### **Employment**

The National H.I.R.E network has an excellent list of 14 federal recommendations to increase workforce participation for people with records, available at <http://www.hirenetwork.org/nationalpolicy.html>. The list includes lifting the ban on receiving food stamps for people with drug convictions, the known as the Food Assistance to Improve Reintegration Act.

In addition, the federal government should pass H.R. 5300, which focuses on reforming the FBI’s criminal records database that is used nationally by employers to do background checks. According to the National Employment Law Project, approximately 50% of the records in this database are inaccurate. The legislation requires the FBI to locate missing information prior to releasing criminal records information for employment screening purposes, just as they are currently required to do for gun purchases. It also integrates key consumer protections found in the Fair Credit Reporting Act, ensuring workers are guarded against potential abuses.

### **Probation and Due Process**

Several states have demonstrated that significant reductions in probation violations can be achieved by using risk-assessment, resource allocation, and the “swift and sure” sanction model. As discussed above, the federal government could encourage the expansion of these reforms to other states. In Georgia, for example, the Probation Management Act allowed probation officers greater authority to revoke probation, within strict limits, without judicial

review.<sup>16</sup> Known as the “swift and sure” sanction model, this act granted judges the ability to sentence probationers to a small number of jail days, to be imposed by the probation officer. This streamlined, immediate sanction system allowed probation officers to quickly act to punish small infractions before they mounted and resulted in longer prison sentences. Most probation departments, because they are so overworked, will ignore bad behavior until it builds up and then necessitates a longer prison sentence as punishment. The “swift and sure” sanction model has been demonstrated to more effectively correct behavior. Because of the increased efficacy of the model, the Georgia saw a three-fold to five-fold decrease in incarceration time. Similarly, the H.O.P.E. court in Hawaii used swift and sure sanctions to reduce revocation and re-arrest by 50%.<sup>17</sup> The federal government should encourage these models through an incentive program that provides funding to probation departments that successfully implement reforms.

Rhode Island just passed legislation, the first of its kind in the country, to specifically counter the use of back-end sentencing. The legislation requires that a probation revocation sentence be eliminated if the underlying charge is dismissed for lack of evidence, or if the defendant is acquitted. In addition to passing this sort of legislation nationally, the due process and standards of proof required to incarcerate someone on probation for a new charge should be increased. Colorado’s model should be used as an example. As described in the OpenDoors report, Colorado requires that all new criminal allegations be proven beyond a reasonable doubt. In practice, in almost all probation and parole cases, the trial occurs before the violation hearing. Defense attorneys and prosecutors both describe this system as fair, stating that public safety is best served when the facts of the criminal allegation are first determined at trial.<sup>18</sup>

#### **Court Debt**

The Council of State Governments report *Repaying Debts* lists six policy recommendations for easing the unnecessary burden of financial obligations. They include “Make certain that new fines, fees, and surcharges do not reduce the ability of people returning from prisons and jails to pay child support,” and “Establish a range of sanctions and incentives that agencies responsible for collections can exercise when a person released from prison or jail does not meet his or her child support and court-ordered financial obligations.”

The US Supreme Court has set certain restrictions on incarceration for court-debt—the court cannot summarily jail an indigent defendant for his or her ability to pay a fine unless investigation reveals a willful failure to pay. However, this ruling leaves a great deal of room for abuse. Legislation recently passed in Rhode Island improved and reformed the collections process by encouraging judges to decrease or waive court debt for indigent individuals—defined

---

<sup>16</sup> Evaluation of Georgia’s Probation Management Act. Applied Research Services, Inc. 2007.

<sup>17</sup> The Impact of Hawaii’s HOPE program on Drug Use, Crime, Recidivism. PEW Center on the States, 2010.

<sup>18</sup> Personal correspondence, Ryan Esplin, Grand Junction Public Defender; Jeremy Savage, Grand Junction Deputy District Attorney; Todd Hildebrandt, Grand Junction District Attorney.

as individuals receiving public assistance. The legislation successfully decreased the total number of incarcerations for court debt by almost 30%.<sup>19</sup>

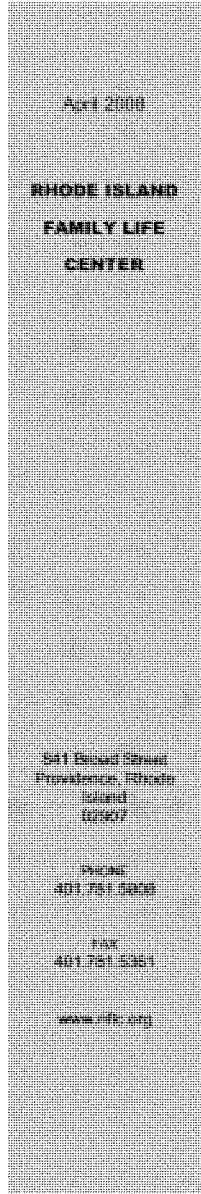
**Voting**

The federal government should pass the Democracy Restoration Act to return the right to vote to all citizens over 18 who are not currently in prison.

---

<sup>19</sup> Just Savings: The Success of Court Debt Reform, OpenDoors, 2009.

# **Court Debt and Related Incarceration in Rhode Island from 2005 through 2007**



Family Life Center 2008

The Family Life Center would like to thank several people for their assistance in this project, without whom this report would not have been possible, including Director A.T. Wall, Erin Boyar, and Terry Foley of the Rhode Island Department of Corrections. The advice of John Hardiman and Mike DiLauro of the Rhode Island Office of the Public Defender was also integral to the ideas in this report.

**Family Life Center**

January 2008

Report Summary.....	4
Background Information .....	5
Protocol for the Assessment and Collection of Fines and Costs .....	5
2006 Legislative Change .....	7
Other Relevant Rhode Island Statutes.....	7
Court Costs in Three New England States .....	8
Relevant Supreme Court Cases .....	9
Court Debt Collection .....	10
Methodology: .....	10
Cost Estimates .....	10
Interviews .....	11
Results .....	11
Overall Results .....	11
Results of new \$150/ day credit.....	12
Restitution .....	13
Interviews .....	13
Characteristics of Individuals Interviewed.....	15
Collateral Effects of Incarceration.....	15
Verification and Error .....	16
Recommendations .....	16
Introduction .....	16
Recommendations for Legislation.....	17
Further Recommendations .....	19



## Report Summary

In Rhode Island individuals who owe money to the state because of past criminal convictions are frequently incarcerated because they fail to appear at 'Ability to Pay Hearings'. Every year, thousands of individuals sit in the Rhode Island jail not for crimes, but because they owe money to the state. Incarceration for court debt is the most common reason to be put in prison in Rhode Island. This report concludes that overall, there is a haste to incarcerate individuals for court debt in the state which causes unnecessary, damaging jail time, is an inefficient use of state finances, and disrupts people's lives. Rhode Island's system of court debt is considerably more punitive, more costly to defendants, and less accommodating to indigent individuals than other New England states.

The debt to the court is either from a fine that is part of a previous sentence or is from court costs which are assessed in all criminal convictions to generate revenue for the state. Individuals with outstanding debt are put on payment plans and if they fail to appear for a hearing a warrant is put out for their arrest. Once apprehended, they are given another hearing date. They are often put in jail with a bail equal to the total debt until the hearing. This study was undertaken in order to determine the extent to which incarceration is used as a means to collect debt and to determine why people end up in prison for fines.

Department of Corrections and Judiciary data from 2005 through 2007 was analyzed and twenty five interviews with individuals in the Intake Service Center of the Adult Correctional Institute were completed.

This study found that incarcerations for court debt comprise 18% of all commitments in the state of Rhode Island. In both 2005 and 2006, on average there were 24 people each day incarcerated at the ACI for court debt. This number has continued to go down since a new law went into affect in late 2006, and averaged 18 in the last six months. In 2007, individuals were incarcerated for an average of three days and pay bail in only 17% of the incidents. The average amount owed is \$826 while a reasonable estimate for the cost of the incarceration is \$505. 13% of the incarcerations cost the state more than the amount owed by the individuals. The state spends an estimated \$489,919 per year on per diem inmate costs, prison staff, court, and police costs combined.

Although Sixth District Court deals with a much larger quantity of cases than any other court in Rhode Island, it generates a disproportionate amount of the incarcerations. 67% of the money spent to incarcerate people for court debt is spent by the Sixth District Court. People incarcerated by Sixth District Court for court debt spend an average of four days in jail.

Most of the individuals interviewed should not have been incarcerated for as much time as they spent in jail. They either legitimately could not pay their debt or could have been induced to pay through cheaper methods. In addition, the incarcerations create significant obstacles for individuals attempting to establish a stable, prosocial life.

This report recommends the passage of S2234/H8093, including five central reforms to decrease unnecessary incarcerations for court debt: 1. Reduce the maximum amount of time people are held in jail awaiting ability to pay hearings to 48 hours. 2. Take ability to pay into account when assessing court fines and costs initially and throughout the payment plans. 3. Employ a variety of collection methods before resorting to incarceration. 4. Accept smaller bails from individuals picked up on warrants. 5. Reduce the warrant fee for people brought in on warrants for failure to appear.

## Background Information

### *Protocol for the Assessment and Collection of Fines and Costs*

Debt to the court can be accrued in multiple ways: child support payments which must be made to family court; fines levied as part of a sentence or ticket; restitution levied as part of a sentence, and court costs<sup>\*</sup> which are levied much like user fees to pay for a service.

Individuals that owe restitution have their restitution debt pooled with debt from fines and costs. People who owe restitution are given separate restitution review hearings. Because of the slightly different nature of restitution debt and because it could be identified separately in the analysis, incarceration for restitution will be discussed separately.

Many criminal charges allow fines to be used in addition to or instead of prison time. For example, sentences for possession of marijuana can include fines of between \$200 and \$500. Sentences for loitering for indecent purposes can include fines between \$250 and \$1,000. Sentences for driving without a license, first offense, can carry a \$250-\$500 fine. In addition, some crimes allow for restitution as part of a sentence. All of these fines are punitive.<sup>1</sup>

In contrast to the punitive nature of court fines, the court costs system is a way for the courts to use their authority for the purpose of collecting revenue to help fund their operation and other functions related to the criminal justice system. Based on Rhode Island state law, people who are found guilty or plead no contest to a crime in Rhode Island state court are assigned a fee that is owed to the court.

<sup>\*</sup> These 'user fees' are generally referred to as 'court costs' in Rhode Island statute. They are alternately called fees or surcharges in other states but they will be referred to as 'costs' throughout this document.

<sup>1</sup> A full list of all of these fines has not been provided because of the large number of offense types. They are located in Chapters 12, 31 (driving related), and 21-28 (controlled substances) of the Rhode Island General Laws.

If the crime is only a misdemeanor, then under current law the defendant owes \$93.50 for each charge for which he or she is convicted. Of that money, \$60 goes to the general revenue (Section 12-18.1-3), \$30 goes to a fund that is used to compensate victims of violent crime (Section 12-25-28), and \$3.50 goes to the jurisdiction of the police department or state agency that filed the charge (Section 12-20-6). For a felony charge, which is any criminal offense that carries a maximum punishment of more than one year of imprisonment or a fine of more than \$1,000, the amount is over \$270, and for felonies which carry a maximum penalty of over 5 years, it totals over \$450. Those who face multiple charges end up owing several times this amount, though the court may reduce the amount somewhat for defendants with four or more charges (Section 12-18.1-3). See Appendix 1 for a breakdown of court fines.

Additionally, many specific types of charges carry additional fees, such as a \$25 cost for each domestic violence charge (Section 12-29-5), which is paid into the state's general revenue. Anyone who is apprehended on a warrant is assessed a \$125 fee (Section 12-6-7.1), \$25 of which is paid to the arresting agency. Most drug charges carry an additional fee of \$400(21-28-4.01-c.3.iii).

The state also imposes laboratory fines which are combined with court costs as part of a defendant's total debt to the state (Section 23-1-3(g),(h)). Most drug related convictions carry a lab fee of \$118 and most serious non-drug related felonies carry an extra lab fee of \$100. These fines go into the general fund. As a result of combined fees individuals with one felony drug possession charge end up with a total of at least \$788 in court fees.

Debt from punitive fines is combined with court costs when determining an individual's overall debt to the state and it is collected in the same fashion. In contrast, traffic tickets are civil offenses and are assessed and collected separately in a separate court and cannot independently result in incarceration.

The courts' practice is to allow people to gradually repay the amount owed through regular payments. The courts have claimed the power to enforce the collection of this debt by

Family Life Center 2008

temporarily incarcerating anyone who can afford the payment but fails to pay, though in practice they rarely exercise this authority. More commonly, judges use the power of the court to issue court orders that require people who owe fines or costs to appear before the court on assigned payment dates. Failure to appear on a court ordered date results in a bench warrant and is sufficient cause for being held in the state's prison system. The courts regularly exercise this authority.

The Sixth District court of Rhode Island processes by far the most cases in Rhode Island and thus deals with the majority of individuals that owe court debt to the state. It is protocol in the Sixth District to alert all those with fines and costs of the amount they owe and the date of their first hearing upon sentencing. Defendants sign a form agreeing to pay the set amount and appear at the set date. Individuals must then appear at that date and set up a payment plan and set the next hearing date. If the individual is sent to prison, they receive a video conference court hearing one month prior to release in which they will discuss the date of their first fine hearing and how much they owe. For all later hearing dates, individuals must either appear before a judge to discuss their ability to pay or pay the clerk the full amount owed. Individuals must appear in person, even if they can make their payment, to sign an agreement to come the following month. Payment in mail and payments made by others are not accepted by the Sixth District court.

Courtroom 3E, presided over by Magistrate Christine Jabour, is dedicated every morning between nine and around eleven solely to ability to pay hearings. These hearings are designed to assess the person's ability to pay, with the court claiming the authority to incarcerate those who fail to pay despite being able to pay. In practice, the hearing is cursory and it is extremely rare for people who appear at their scheduled hearing to be held for failure to pay.

The hearing often lasts no more than two minutes, and it is focused on getting the person who is appearing before the judge to agree to a future payment that he or she will be able to

make. It frequently also involves some discussion of the person's employment situation. The magistrate sometimes tells the person to find a job, or a job with longer hours, or a second job that will allow them to make payments to the court. Occasionally, the hearing will involve more extensive demands from the judge, especially if the person has arrived late in court or has not paid the court for a long period of time. The magistrate might demand that a person who is not employed search for a job and bring a list of a certain length of places that he or she has applied for a job to the next hearing if he or she is not able to make a payment by then. In most cases, the hearing serves as a way for the court to keep in touch with the person who owes them money and to remind that person of the importance of paying.

If a person fails to make a scheduled payment and then fails to appear at the scheduled review hearing, then the judge issues a bench warrant. Any police officer who has contact with a person with an outstanding warrant will apprehend him or her. The person will be brought into the court where he or she owes costs or fines for its next session, which may involve being held in the intake service center overnight or over the weekend. When the person is taken into court on the bench warrant, the person's treatment is at the judge's discretion. The judge may decide to issue a hold on the person and set the bail at a level they deem appropriate (Section 12-6-7.1). In practice, they set it at a number related to the total amount owed in court fines, including all previous costs plus the \$125 warrant fee<sup>2</sup>. Individuals who miss hearings can 'surrender' themselves to the court, and the judge will generally waive the warrant and warrant fee. This practice is

<sup>2</sup> RI General Law 12-6-7.1 recommends setting bail at the total amount of fines, however it allows for any bail that will ensure the defendant's appearance at the ability to pay hearing. "Any person apprehended on a warrant for failure to appear for a cost review hearing in the superior court may be released upon posting with a justice of the peace the full amount due and owing in court costs as described in the warrant or bail in an other amount or form that will ensure the defendant's appearance in the superior court at an ability to pay hearing, in addition to the one hundred twenty-five dollars (\$125) warrant assessment fee described above."

relatively rare, possibly because it is not fully understood by defendants. Sometimes judges will offer a smaller bail at court, as low as one half of the total in fines, although afterwards if the person is incarcerated the bail is generally set at the full amount. The bail is always set as cash bail, as opposed to surety bail, which means that the individual must pay the full amount to be released.

In contrast to 6<sup>th</sup> District Court, in Providence Superior Court there are attorneys on hand to represent individuals brought in on warrants, and Ability to Pay Hearings are often conducted at someone's court appearance. While judges in Superior Court still may choose to hold someone in prison on bail, with those not paying forced to wait for a bail hearing, this not standard practice.

If an individual cannot pay the necessary bail and the judge chooses to incarcerate the individual, they are sent to the intake service center. If the bail is paid, then he or she is free to go, and the bail is treated as a payment of the costs and fines that were owed. Often judges will schedule hearings for dates several days after incarceration, at which point the court will release the individual on personal recognizance. If the individual owes fines to several courts, they will have to wait for hearings at all courts before being released. While many people are released after several days, many also spend close to a week in jail waiting for an ability to pay hearing. In much less common cases, they will spend several weeks in the Intake Center without any communication from the courts, waiting release or a court appearance. Individuals are almost always released after their ability to pay hearings, which consist mainly of the judge setting the next payment date for the individual and reviewing the amount they must pay. The hearings take place over video conference and there is no attorney present.

### **2006 Legislative Change**

The 2006 Legislative Session of the Rhode Island Congress passed a bill (House Bill 2006-7006, Senate Bill 2006-2326) that amends

7

Rhode Island General Law 11-25-15 and substantially changes how individuals are incarcerated for court fines and costs. According to the previously existing law, individuals were to be credited five dollars per day that they spend in prison as a result of failure to pay court fines and costs or make the proper appearances associated with court fines and costs.<sup>3</sup> The amendment altered this fee from \$5 to \$125. The intent of the amendment was that if people are incarcerated for failure to pay or failure to appear and do not have the ability to make bail they will receive some compensation for the time spent in prison, which will go to decreasing the number of indigent individuals spending time in prison for court fines. The new policy came into practice in the end of 2006. Perceivable effects of this new legislation will be discussed in the Results section.

### **Other Relevant Rhode Island Statutes**

Rhode Island General Law is generally interpreted as giving the court the power to remit costs in criminal cases. Section 12-20-10 states:

<sup>3</sup> 11-25-15. **Imprisonment for failure to pay fines or costs or give recognizance.** – Every person who has been or shall be committed or detained in the adult correctional institutions for the nonpayment of his or her fine or costs, or both, or for failure to give the recognizance in the amount required of him or her to keep the peace, shall be detained in the adult correctional institutions after that person has served his or her sentence of imprisonment, if any shall have been imposed, one day for each ~~five one hundred fifty dollars (\$500)~~ (\$150) or any fraction of it, of the amount of his or her fine or costs, or both, or of the recognizance so required of and not furnished by that person. However, the director of corrections may order the release of any person held in the adult correctional institutions solely for the nonpayment of his or her costs on any terms that he or she shall fix for the payment of the costs by that person and any person so released may be caused to be reimprisoned by the director of his or her failure to observe the terms of the release, and his or her warrant for imprisonment shall be sufficient authority to all sheriffs, police officer, jailers, and the agents for the director to retake and detain the person who shall upon his or her return to the correctional institutions serve one day for each dollar or any fraction of it of his or her costs then unpaid.

Family Life Center 2008

"The payment of costs in criminal cases may, upon application, be remitted by a justice of the superior court; provided, that any justice of a district court may, in his or her discretion, remit the costs in any criminal case pending in his or her court, or in the case of any prisoner sentenced by the court, and from which sentence no appeal has been taken."

In addition, Section 12-20-10 states:

"If, upon complaint or prosecution before any court, the defendant shall be ordered to pay a fine, enter into a recognizance or suffer any penalty or forfeiture, he or she shall also be ordered to pay all costs of prosecution, unless directed otherwise by law."

Both of these statutes give the court power to waive court costs. Section 12-18.1-3 qualifies the court's ability by limiting the ability to waive specifically costs to cases where the court finds an inability to pay. The section lays out the specific costs for types of offenses (as discussed in the previous section) and then states:

(b) These costs shall be assessed whether or not the defendant is sentenced to prison and in no case shall they be remitted by the court.

(c) When there are multiple counts or multiple charges to be disposed of simultaneously, the judge shall have the authority to suspend the obligation of the defendant to pay on all counts or charges above three (3).

(d) If the court determines that the defendant does not have the ability to pay the costs as set forth in this section, the judge may by specific order mitigate the costs in accordance with the court's determination of the ability of the offender to pay the costs.

Rhode Island General Law also makes reference to inability to pay as a necessary condition for

8

waiving costs in Section 21-28-4.01(c)(3)(ii), in regard to drug treatment and education costs. In contrast, statute 12-25-28 currently forbids judges from waiving costs that contribute to the victims' fund, which is roughly one third of all court costs. The interpretation of these statutes seems to vary across judges, but most statutes are in agreement that costs can be waived if the defendant is found to be unable to pay the costs.

Rhode Island General Law 12-6-7.1 also specifically states that if a warrant is issued for someone's arrest for their "failure to appear or comply with a court order" \$125 in fines is assessed. It also states that their bail shall be set at their total court costs or an amount "that will ensure the defendant's appearance in the superior court at an ability to pay hearing."<sup>4</sup> This statute uses the word 'costs' but is interpreted to refer to both costs and fines, since the debt is pooled.

This statute as well as the recently amended statute 11-25-15 are the two statutes which specify the ability of the court to incarcerate individuals for failure to appear at court fine hearings or failure to pay court fines or costs.

### ***Court Costs in New England States***

**Massachusetts:** In Massachusetts, the standard fees are the victim witness fee (\$50-\$90) and council fee (\$150) per case. Fees can be worked off through community service and they can be waived for indigent defendants. Individuals arrested on warrants are brought immediately to ability to pay hearings, and there

<sup>4</sup> RIGL Section 12-6-7.1: "Any person apprehended on a warrant for failure to appear for a cost review hearing in the superior court may be released upon posting with a justice of the peace the full amount due and owing in court costs as described in the warrant or bail in an other amount or form that will ensure the defendant's appearance in the superior court at an ability to pay hearing, in addition to the one hundred twenty-five dollars (\$125) warrant assessment fee described above. Any person detained as a result of the actions of the justice of the peace in acting upon the superior court cost warrant shall be brought before the superior court at its next session. Such monies shall be delivered by the justice of the peace to the court issuing the warrant on the next court business day."

Family Life Center 2008

is a warrant fee of \$50. Court debt is generally collected through probation officers, and payment is usually a condition of probation. No interest is charged for outstanding court debts.

**Connecticut:** \$20 fee for anyone who commits a felony, \$15 for anyone who commits a misdemeanor (per case not per charge). There are also a considerable number of other costs assessed for specific cases, the most significant being a \$200 fee for all people whose sentences include probation. Fees must be paid by the time of sentencing or before release from prison and no payment plans are allowed, however fees are often waived when the sentence includes prison time and can be waived for indigency. There are no warrant fees and no interest is charged for outstanding debts. An individual with one felony drug conviction will have a \$220 state debt at most.

**Maine:** Maine has a mandatory victims' compensation fund assessment of \$10 for each misdemeanor and \$25 for each felony. There is also a surcharge of around 15% on fines. There are no warrant fees and no interest is charged for outstanding court debts, although there is a bail fee of \$40 for being bailed out.

**New Hampshire:** New Hampshire charges a range of cost recovery fees for individuals representing by public defenders. Fees are \$275 for a misdemeanor and around \$750 for felony drug possession, but range even higher for more serious felonies. There is also a penalty assessment fee added on to any fines assessed. Fees are collected by the Office of Cost Containment and people are generally given fairly lenient payment plans. No interest is levied on outstanding debts. Payment is mailed in every month, and individuals are given "Show Cause Hearings" if they are very delinquent in their payments. At the hearings, the state must prove beyond a reasonable doubt that the individual is willfully in nonpayment in order to prove contempt of court. Most hearings end in agreements to keep paying, and jailing for court fees is extremely rare.<sup>5</sup>

<sup>5</sup>**Massachusetts:** Chapter 280, sec. 6 of Massachusetts General Laws; phone conversation with Andy Silverman, Deputy Chief Counsel for the Public Defender Division of the Committee for Public Counsel Services. **Connecticut:** 9

## Relevant Supreme Court Cases

The Supreme Court has stated that individuals cannot be summarily incarcerated for owing money if they are unable to pay their debt. Alternative measures must be considered before incarceration is employed.

**Bearden v. Georgia** 461 U.S. 660 (1983) The Supreme Court found that a court cannot summarily jail an indigent probationer for failure to pay fine unless inquiry reveals willful failure to pay. The ruling stated that

"...in revocation proceeding for failure to pay a fine or restitution, a sentencing court must inquire into the reasons for the failure to pay. If the probationer willfully refused to pay or failed to make sufficient bona fide efforts legally to acquire the resources to pay, the court may revoke probation and sentence the defendant to the imprisonment within the authorized range of its sentencing authority. If the probationer could not pay despite sufficient bona fide efforts to acquire the resources to do so, the court must consider alternative measures of punishment other than imprisonment. Only if alternative measures are not adequate to meet the State's interest in punishment and deterrence may the court imprison a probationer who has made sufficient bona fide efforts to pay."

**Tate v. Short** 401 U.S. 395 (1971) The Supreme Court found that a court cannot convert a fine imposed under a fine-only statute into a jail term solely because the defendant cannot immediately pay the fine in full.

**Payne v. Mississippi** 462 So.2d 902, 905 (Miss. 1984) The Supreme Court found that a court may not first fine a defendant and then, because of his

Sec. 54-143 of the General Laws; correspondence with Catherine Meyer of the Division of Public Defender Services. **Maine:** Article 1901 of the General Laws; correspondence with Walter McKee, the president of the Maine Association of Criminal Defense Lawyers. **New Hampshire:** Correspondence with Christopher Keating of the NH Office of the Public Defender.

Family Life Center 2008

indigency, convert the fine into a jail sentence for failure of the defendant to make immediate payment of the fine.

### **Court Debt Collection**

The Rhode Island District and Superior Courts Assessed a total of \$20,273,847 in court fines and costs in fiscal year 2007. Their four-year collection rate is 77% with another 13% of these fines still on payment plans or appealing the charges. 10% of their fines still went uncollected after four years.

District Court reported a significantly higher four-year rate of collection, 50% in Superior Court versus 90% in Sixth District. Superior Court maintains a significantly higher portion of people on payment plans, with 32% still on payment plans in Superior Court after four years, versus 3% in District Court. These differences in collection rates could be the result of generally higher fines and costs for people in Superior Court, since they more often face felonies.

The RI Judicial Technology Center calculated the total owed, collected, uncollected, and on payment plans/appealed from fiscal year 2001 to fiscal year 2005 for the Superior Courts, District Courts, and Traffic Courts. This information is provided in Appendix 1<sup>6</sup>. The table shows the collection data by court and also for District and Superior combined. This report does not specifically address the collection policies of traffic courts, since all holds that were included in the study were either District or Superior court holds.

Year by year collection data reflects the continual collection activity for fines and costs assessed in that year. The percentage collected for each year increases in both District and Superior Court because as years go by the debt is gradually collected. For example, in 2001 District and Superior Courts assessed

\$14,766,466.00 in fines. Since then, they have collected \$11,376,077.00, or 77%, of this debt and another 13% is still on payment plan. Only 10% is categorized as "uncollected."

### **Methodology:**

The information in this report is from either analyzing a large number of electronic files or interviews conducted in the Intake Service Center in the fall of 2006. The goal of the electronic data analysis was to determine which commitments in Rhode Island were the result of 'failure to pay' or 'failure to appear at an ability to pay hearing.' This was not a trivial task, because no agency in the state expressly records whether a commitment is for failure to appear at an ability to pay hearing. The full methodology is included in the April 2007 version of this report, but is omitted in this version because of length. All commitments between January 2005 and January 2008 were reviewed for the purpose of this study using data provided by the Department of Corrections and publicly available court data. The methodology has been reviewed and approved by the Department of Corrections Department of Research and Planning.

### **Cost Estimates**

This study estimates the direct cost of incarceration to the state for court debt in two ways. The first uses the DOC's estimate of \$95/day per person costs at the Intake Service Center. This represents the total daily operating costs of the building divided by the average inmate population. Court and police costs are estimated by using the \$125 warrant fee. The second estimate is more conservative, and attempts to take into account marginal costs to estimate costs for this specific sub-population. Both methods have advantages and disadvantages.<sup>7</sup> Cost estimates do not include

<sup>6</sup> Information in appendix was released in 2007 and includes collection rates as well as rates of debt on payment plans from 2001 to 2005. More recent 2006, 2007, and 2008 data was released in 2008, but this data does not include rates of debt on payment plans.

10

<sup>7</sup> The second estimate uses the per diem costs at the DOC, which is roughly nine dollars a day, along with the cost of one full-time prison guard salary. This estimate takes into account the number of men and women incarcerated, and estimates that one full-time guard at the ISC is necessary because of this population. The per diem cost, guard cost, Family Life Center 2008

the cost of lost wages on the part of the defendant or other non-monetary costs to the defendant.

### Interviews

25 people were interviewed while they were being held in the Intake Service Center during the months of September and October. They represent a random selection of the people that could be contacted to interview. As will be discussed in the results section, about half the people committed for court fines either bail out or are released after a few days. Those people were not in long enough to be contacted. The interviewee pool represents the set of people who were unable to make bail and ended up spending closer to a week in jail. This still represents a significant portion of people committed for court fines. No individuals were refused an interview after contact and no interviewees refused to be interviewed.

## Results

### Overall Results

18% ( $\pm .5\%$ ) of all commitments in the state of Rhode Island in 2007 were solely the result of the defendant missing an Ability to Pay hearing. This is greater than the frequency of any other single new charge.<sup>8</sup> There were 2446 ( $\pm 68$ ) incidents of incarceration for court debt in 2007 for an average of three days (two nights) and with bails of \$826 on average.

### Bail and Time Spent in Jail for Court Debt

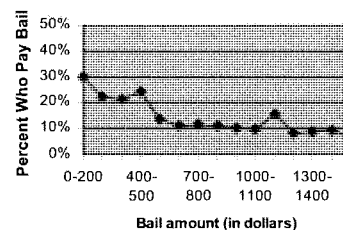
A considerable number of people are held on bails that are equal to or lower than the amount of money spent to incarcerate them. 13% of the commitments for court debt were net losses for the state—the money spent

and police and court cost estimate are combined. This estimate does not take into account the high costs of such a transient population, which will cost more to transport and house than a small number of people held for longer sentences.

<sup>8</sup> The second most frequent reason for a commitment is for driving with a suspended license (Family Life Center, unpublished results).

11

**The Effect of Bail Amount on  
Paying Bail  
Figure 2**



incarcerating the individual was worth more than their debt.<sup>9</sup>

17% of those incarcerated for court debt make bail. They still remain in prison for an average of one day, and they pay an average of \$437 in bail (the actual amount paid is probably half of that, since judges often offer lower amounts of bail while in court). The vast majority cannot pay and demonstrate this by spending an average of three nights in prison. 94% of individuals who are bailed pay bail within the first two days of incarceration. Among the population that is not bailed, although the average stay is three days, there is a wide variety of time spent in prison. A large portion of people spend three days or fewer in jail and another large portion average seven days inside—of the individuals who cannot make bail, 37% spend more than three days in prison and 12% spend a week or more in prison.<sup>10</sup>

Figure 2 demonstrates that in 2007, people with smaller bails were more likely to pay bail. People paid bails below \$500 twenty-five percent of the time, while people were able to pay higher bails only 11% of the time.

### Differences in Rhode Island courts

The court handling the case makes a difference in the level of court debt related incarceration. Partially because of its high

<sup>9</sup> This uses the highly conservative estimate, discussed later, that each night costs the state \$23, plus \$125 in police and court costs per incident.

<sup>10</sup> This is 9% of all commitments for court debt, bailed and unbailed.

Family Life Center 2008



number of cases, Sixth District Court accounts for the majority of the incarcerations for court debt. One half of all pre-trial commitments in Rhode Island originated in Sixth District Court but 67% of all incidents originated in Sixth District Court. In contrast, Superior Court generates 16% of pre-trial commitments but only 8% of court debt commitments. The full data by court is show in Appendix 2.

#### **Background factors of incidents**

People incarcerated for court fines have generally shown up for several of their previous court fine appearances or missed their very first one. As will be discussed in the interview section, a considerable number of individuals interviewed had made significant efforts to pay or appear before missing a hearing. There is also a significant number of people who never show up the first time to start their payment plan. This is reflected in the data as well. People had on average appeared at three hearings before missing the hearing that generated the warrant. Around 8% of the commitments were for first-time offenders—people who had never missed a date before. Overall, 66% of the people jailed for court debt either were first time offenders or showed up at least three times consecutively. This contradicts the notion that judges only use incarceration on people that are serially delinquent.

In Rhode Island court costs and court fines are pooled together when determining an individual's overall debt to the state. However, 53% of the individuals incarcerated for court debt did not receive a fine as part of their sentence for the case they were being held on. Their debt is comprised only of court costs and warrant fees.

#### **Costs**

One day in the Intake Service Center (ISC) costs the state \$95 according to the DOC's estimated cost per offender.<sup>11</sup> There are an estimated 7,827 days spent in intake for court debt every year. Additionally, the state assesses

a \$125 warrant fee for every incident. Using the warrant fee to estimate the court and police costs, the total estimated cost to the state would be about one million dollars.

A more conservative estimate of the cost to the state, taking into account the marginal cost of each prisoner at the ACI, is \$486,575. This estimate relies on the estimate that decreasing the ISC population by eighteen people could result in the reduction of one Correctional Officer. The breakdown of this estimate is shown in table 1. Using this estimate, the average cost per incident is \$210 and the average prison cost per night is \$23<sup>12</sup>.

	Cost
Eighteen prison-years (men)	\$58,291
Four prison years (women)	\$12,153
One guard position in ISC	\$110,405
Court and police costs	\$305,725
Total	\$486,575

**Conservative Estimate of Yearly Costs**  
**Table 1**

#### **Results of new \$150/ day credit**

According to statute 11-25-15 individuals must now be credited with \$150 for every day they spend in jail because of court debt. Conversations with judges and a review of court records demonstrated that judges are applying the credit in most cases. However, interviews demonstrated that some people were being held in jail for longer than their debt justified. For example, one individual owing less than \$300 was held for eight days, but their debt was erased upon release. A reading of 1-25-15 along with 12-6-7.1 indicates that an individual should not continue to be incarcerated if they have paid off their debt.

There are several trends which may have been caused by this new \$150/day credit policy: There are fewer incidents of incarceration for court debt. As shown in Figure 3, the number of people held at the ACI for court debt changed markedly after the new law went into effect in October 2006, and it has continued to come

<sup>11</sup> 2005, Rhode Island Department of Corrections Costs Per Offender –FY 2005

<sup>12</sup> \$210/incident includes the \$125 court/police cost  
Family Life Center 2008

down since then<sup>13</sup>. In 2005 and 2006 there were on average 24 people held at the ACI for court debt each day<sup>14</sup>. Over the last six months the average has been 18, and the number may still be going down as the effects of the new credit continue to build. In parallel, since the law went into affect, the overall awaiting trial population has also decreased. In October 2006 the awaiting trial population was 910 people per day. In June 2007, the population was down to 700.<sup>15</sup> This is the first year since 2003 in which the June population size did not increase each year. While it is unlikely that a change in the court debt population could have caused a decrease of 200 people, it has contributed to the decline.

Secondly, it appears that fewer individuals are posting bail. In 2005, 22% of those picked up on court fine warrants posted bail. In 2007, only 16% have posted bail. It is possible that the \$150 credit creates an incentive to not post bail.

### Restitution

Individuals that owe restitution have special restitution review hearings scheduled. If they miss these hearings they are incarcerated similarly to people owing court fines or court costs. However, only about 1% of all commitments are for missing a restitution review hearing. This is possibly because restitution is far less likely to be assessed than court costs. An analysis of the types of sentences in court records indicates that only 17% of commitments were for cases that include restitution as part of the sentence.

### Interviews

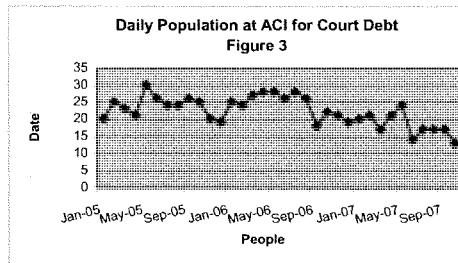
<sup>13</sup> The high number in May 2007 that seems to contradict the trend is a result of typical increases in the summer of most ACI populations. This increase occurred in the summer of 2005 and 2006 as well.

<sup>14</sup> These averages are monthly averages, calculated by averaging the number of inmates each day over the whole month.

<sup>15</sup> RI DOC Population Report-2007

13

John Lester (name changed) was sleeping on a bench in Providence, Rhode Island. John is originally from Newport but took the bus down to Providence to see friends. A couple days ago he had shipped back from a several week long fishing voyage. Since he landed the job a couple months ago he was only off ship five days a month or so.



Unfortunately for John, a Providence police officer decided to ID John, and within hours he was in a holding cell. John owed almost \$2,000 in court debt from prior convictions, his most recent being a disorderly conduct charge a year ago, and he was held on a \$220 bail (his debt to Sixth District Court) which he could not pay. He had missed a court fine hearing the previous month, his first since getting out of alcohol abuse treatment. He stated "I went through hell for the last year, I lost my mother, I spent eight of the last twelve months in prison, then home confinement, then the court made me go through rehab. I just got out [of rehab] in April. Things were getting going, now they just jammed me up. It's my fault but that doesn't make it right." While John was being held his ship set sail without him, potentially causing him to lose his new job, and he was unable to call his federal parole officer about the parole date he had to miss. John was told he would be held for a week while waiting to appear before a judge to discuss his fines.

Unfortunately, due to bureaucratic confusion, he was held for 32 days and was only released when a public defender was alerted to the problem.

John's story, aside from the very long time he spent in jail, was similar to the stories from the other 24 people interviewed. Ten

Family Life Center 2008

interview summaries are included in the appendix.

#### Reasons for missing court date

Almost every person being detained for court fines is being detained for a combination of inability to pay and inability to meet the court schedule. Many could pay some bail but cannot pay the high bail that is set. Only one of the people interviewed could potentially pay their fines and expressed a significant resistance to paying, and even that person was currently unemployed. Table 2 shows the reasons that people missed Ability to Pay hearings. Overall, the conditions which resulted in the incarceration of the people interviewed demonstrated a haste to incarcerate people who missed appointments.

The most common reason people miss hearings is they forget about the hearing. One man interviewed had been paying and showing up regularly. He forgot one hearing and had planned on going to visit the court on the same day he went in to family court. The sheriff who came to his door to issue him a summons to his family court date picked him up on his warrant and he spent 8 days in jail on a bail of \$1,182 which he could not pay. In the three months prior to his last incarceration he had gone to court and made his monthly payments each month.

Several people, such as John, were relatively recently released and had not yet gone to court to set up a payment plan. They had either never received the first court date or had received it prior to being released from prison or entering a rehabilitation program and then were never reminded of the date.

One woman had been released on

probation several months ago. She had been seeing her probation officer regularly. She had never been aware of her ability to pay hearing and her probation officer never informed her of the warrant put out for her arrest. At five in the morning police broke into her bedroom looking for her neighbor. They ran her name and brought her to prison where she spent eight days in prison on a bail of \$243.50.

Many people, especially those not living in Providence, stated that transportation necessary to meet court dates was both overly time consuming and expensive. One man from Woonsocket said that to make it to court in Providence by nine in the morning he has to get up at six in the morning, walk two miles, and take a bus to Providence. He is a veteran and is on SSDI for Post Traumatic Stress Syndrome. He has been incarcerated two other times for court debt. He stated, "If there was a court in Woonsocket I could go to and it was only thirty per month, I would pay it."

While the courts rarely incarcerate people who show up to Ability to Pay Hearings, people who do not have the money to pay their fines sometimes do not go to their hearings because either they are not aware they should go anyway or they have been threatened by the court that if they continue to show up and not pay they will go to jail. The court does not explicitly inform defendants that they can continue to show up and not pay without being imprisoned, so confusion is not surprising.

One man who had been paying and showing up fairly regularly stated "I have a job, it's a moving company, I only make \$8.75. Money only stretches so far, I got bills, I got rent. I might miss a month or two. They want

**Reasons for Missing Ability to Pay Hearings**

knew about date but forgot	6
was never informed of date or did not remember being informed of date	6
refused to go	1
could not pay for transportation	2
did not have money and did not know they should go anyway	5
did not have money and had been threatened to not come back without money	1
could not miss work	2
tried to go, prevented by court	2

**Table 2**

to lock you up. Right now I'm losing my job. What can I do? I missed my last hearing because I had rent. No one ever told me that if I went they wouldn't lock me up even if I couldn't pay."

David has been homeless on or off for the last several years. He has not been able to work since 2002, and has SSI pending because of a chronic nerve disease, hepatitis, and diabetes. He has been in prison for court fines many times previously and reports often going to court dates despite the fact that he almost never can pay.

"I can't work because I got a physical condition that keeps me from working. I got SSI and SSDI pending. I got peripheral neuropathy, chronic nerve disease. All the jobs I ever did were outdoors, I can't do that no more, or restaurant work, and I can't do that no more because I got hepatitis. A lot of times they go 'you got to come back to court on such-and-such a date or else' and when they say that 'or else' that means you are going to jail, no matter what, whether you come, whether you show up, or what. So I don't show up. Most of the money I owe is warrants, because I don't show up."

David is an example of a person stuck in a cycle of debt, missed hearings, incarceration, and increased debt. The continued assessments of warrant fines and the continued incarcerations do not result in increased payment.

Some people are incarcerated despite efforts to show up at court and pay their fines. One man reported going to court with shorts on to set up his payment plan and being turned away because of the shorts. He stated:

"The 16<sup>th</sup> of last month, I had got out. I got out on a Saturday, and I had a court date on a Monday, and I had just done six months. I had got out, and I went to court in shorts, not knowing that I wasn't supposed to be going to court in shorts. The sheriff wouldn't let me in, so I just went home and tried to reschedule that appointment. They told me to come back before two, and I live all the way in Pawtucket, so its not an easy thing for me to go and come back like that. I tried, but I didn't make it. I made it

15

back at like 2:30, but they told me court was over that day for court fines. So I ended up just leaving, trying to call my lawyer, telling him that I think I have a warrant. He told me the best thing for me to do was try to take care of it, knowing that I would probably do seven days. He said there's no chance of me even taking care of it. So I knew I had a warrant, you know, and I ended up just procrastinating on that warrant."

He was incarcerated for 7 days for owing 300 dollars to Sixth District court.

### Characteristics of Individuals Interviewed

- 50% (12/25) unemployed
- 18% (4/25) homeless
- 75% (18/25) had been incarcerated for court fines before
- 37 years old on average
- 50% (8/17) that had recently had an extended period in which they owed fines had been paying regularly
- 20% (5/25) had significant mental health problems, including schizophrenia, bipolar disorder, and depression
- 16% (4/25) were on SSI and almost half had significant health problems, including hepatitis, chronic nerve disease of the arms and legs, and seizures.
- Half (12/25) are responsible for children
- Half (12/25) of those with jobs will probably lose their job because of their incarceration

### Collateral Effects of Incarceration

Aside from the cost to the state of jailing individuals, there are other collateral costs to the individual, including time lost from work. This report did not collect enough data to estimate the number of individuals who lost time from work because of incarceration, however, twelve of the twenty-five of those interviewed were currently employed. Individuals reported many other problems caused by the incarceration, from

Family Life Center 2008

losing apartments to not being able to take medicine for mental health problems.

Mike was on the point of giving up when he was interviewed in the Intake Service Center. Mike had a job and was living with his girlfriend when he was picked up by a cop who recognized him while he was leaving the hospital. He has hepatitis and seizures. He is on food stamps and has applied for SSI. Mike has been incarcerated two other times in the past year for court debt, and each time he almost lost his job. While in jail, he stated:

"I lost my job, I lost my girl, my apartment. I will probably get violated because I didn't show up for a probation appointment. They'll put another warrant out on me. I lost my job twice, they gave it back to me before, I don't think they will this time. I try so hard but I'm losing everything over and over again. After awhile you just feel like giving up and putting a bullet in your head."

Mike was in a drug rehabilitation program when he was incarcerated, and will probably not be able to reenter it immediately when released. He owed \$300 to the state.

Mike's situation is not unique. Several individuals testified to having lost jobs more than once because of court debt incarceration. One man said that his family would not be able to pay rent that month because of his incarceration and he was worried what would happen to his wife and kids while he was in jail. Another man on SSI stated that he would probably get his SSI check stolen while in jail.

Incarceration for court debt is a major obstacle for individuals attempting to reenter society after time in prison or any individual who has a prior history of criminal conviction and is trying to maintain a legal and prosocial life. Incarceration for court debt interrupts medical and rehabilitation treatment, causes individuals to be fired from employment, disrupts families, and disrupts housing situations.

### **Verification and Error**

16

Considerable efforts were made to verify all data provided in the results section, including: comparison to court warrants, in person corroboration of statistical results during interviews, and internal comparison within database results. For more discussion, see the April 2007 version of the report, available at [rifle.org/index.php?name=reports](http://rifle.org/index.php?name=reports). Verification efforts indicated that there while some unique commitments may have been mis-categorized, this represents a very small proportion of the total commitments, less than 1% of those identified. Because approximately 6% of all records could not be fully found in databases, a small amount of estimation was required. This is discussed more fully in the previous version of the report.

## **Recommendations**

### **Introduction**

This report recommends passage of S2234 sponsored by Senator Harold Metts and H8093 sponsored by Representative O'Neil. The current policy should be altered to avoid assessing fines that the defendant cannot pay, decrease the amount of money spent by the courts, police, and prison system to incarcerate, and avoid unnecessary incarceration of defendants. It is necessary that the courts still maintain and use the power to incarcerate for delinquency around court fines. This is a necessary measure to ensure that people with court debt that have the ability to pay the debt make efforts to pay it. However, incarceration related to court debt should be a last measure used for people avoiding payment. Incarceration related to court debt contributes to 17% of all pre-trial commitments, a significant part of the ACI's activity and a significant contribution to overcrowding.

This report makes the following general recommendations, which are elaborated below. Recommendations are based on research discussed in the results section, and many came at least in part from suggestions made by the individuals interviewed.

Family Life Center 2008

1. Reduce the amount of time people are held in jail awaiting ability to pay hearings to 48 hours.
2. Take ability to pay into account when assessing court fines and costs initially and throughout the payment plans.
3. Employ a variety of collection methods before resorting to incarceration.
4. Accept smaller bails from individuals brought in on warrants.
5. Reduce the warrant fee.
3. Prioritize the payment of restitution over court costs and fines.
4. Decrease the warrant fee to \$25.

#### **Reasons to Consider Ability to Pay when Assessing Court Fines and Court Costs**

Judges should take an individual's ability to pay into account when assessing court debt and as they collect court debt. By adjusting court cost and court fine amounts to the ability of the defendant to pay the court is more likely to collect and can maximize revenue. For example, some individuals interviewed have medical conditions which prevent them from working, have been consistently unable to pay court debt, and have qualified for disability insurance from the state. It would be more effective for the court to assess lower court costs and court fines in these cases instead of establishing a court debt that is unlikely to be paid.

Structured or means based fines that relate to ability to pay are a tested and recommended judicial practice. They were demonstrated to be effective methods of punishment and fine collection in pilot studies and are recommended by the US Department of Justice Office of Justice Programs.<sup>16</sup> These documents lay out specific structures for creating levels of fines based on the offender's ability to pay and the severity of the crime. The New York Bar association, for example, recommends two tiers of payment—one for those who qualify for public defense and another for those who do not.<sup>17</sup> This should be seen as a measure to make

The recent policy change of providing a \$150/day credit seems to have decreased the number of incarcerations for court debt and contributed to the reduction of the awaiting trial population in the ACI. Court fine reform is an important step towards decreasing unnecessary prison costs. However, the \$150/day credit is not an ideal solution to the problem. It costs the state twice, since the state reduces fines and pays to imprison people, and it still leaves people in prison who should not be there. The above recommendations will decrease the number of unnecessary and costly incarcerations, reduce the burden of fines on the indigent, and lower the prison population.

#### **Recommendations for Legislation**

In the 2007-2008 legislative session, the RI legislature is considering Senate Bill 2234 and House Bill H8093. This bill alters several portions of section 12 of the Rhode Island general statutes to accomplish the following things:

1. Define the conditions for a defendant to be deemed indigent and clearly provide judges discretion to waive court costs for indigent individuals. The conditions include being on TANF, food stamps, disability insurance, or a government sponsored state supplemental income program.
2. Ability to pay hearings would occur within 48 hours of incarceration.

<sup>16</sup> Hillsman, Sally T., 1990. "Fines and Day Fines," *Crimes and Justice*, vol 12; Turner, Susan and Greene, Judith, 1999. "The FARE Probation Experiment: Implementation and Outcomes of Day Fines for Felony Offenders in Maricopa County," *The Justice System Journal*, Volume 21/1; Greene, Judith, 1990. "The Staten Island Day-Fine Experiment," in D.C. McDonald (ed.), *Day Fines in American Courts: The Staten Island and Milwaukee Experiments*. Washington DC: National Institute of Justice; "How to Use Structured Fines (Day Fines) as an Intermediate Sanction/ Bureau of Justice Assistance". U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, 1996. <http://www.ncjrs.org/txtfiles/156242.txt>; <http://www.ncjrs.org/pdffiles/156242.pdf>

<sup>17</sup> *Reentry and Reintegration: The Road to Public Safety* Special Committee on Collateral Consequences of Family Life Center 2008

finer more likely to be collected while still maintaining revenue.

**Require that individuals receive an ability to pay hearing forthwith, not to exceed 48 hours after arrest**

Quick hearings are possible, since Superior Court in Providence has an attorney on hand who handles ability to pay hearings of people brought in on warrants immediately. Setting a limit to the amount of time an individual can sit in jail for court debt will do away with unnecessary and costly prison time. A significant portion of the people incarcerated are released after several days without paying bail. However, one third spend more than three nights incarcerated. Additionally, 94% of the people who make bail pay in the first three days. The time spent incarcerated beyond two nights increases jail costs and increases the disruption to the individual's life, such as the likelihood they will lose their employment. Discharge after two nights should be a rule not a possibility. If all individuals committed to jail-time for court debt had been released after 48 hours in 2007 the state would have saved approximately \$200,000 and lowered the awaiting trial population by around 13 people a day<sup>18</sup>. Judges hold Ability to Pay Hearings within 48 hours of incarcerating someone. This could be done by seeing them immediately upon their arrest or holding the hearing soon after incarceration.

**Allow judges to waive costs after the first charge**

The intent of much of the legislation is to increase a judge's discretion to waive costs in cases of inability to pay. One of the reasons Rhode Island costs are so high is because they

are assessed per charge. A second charge does not cost the court twice as much time and effort and it quickly increases costs beyond the point where many can pay them. Judges should have discretion to waive costs beyond a single charge.

**Reduce the warrant fee from \$125 to \$25**

Many people incur large warrant fees over time and are stuck in a cycle of increasing debt and continuous incarceration. One homeless individual interviewed has been jailed ten times for court debt since 2005, meaning this alone resulted in \$1,250 of debt. Another has been to prison a total of seven times for the costs from his 1996 misdemeanor charge, meaning he has been assessed \$875 in warrant fees. He has appeared in court 36 times for these costs. He said "I didn't have the money and I got scared that I was going to get locked up, so I didn't go. I pay when I can, I've been out of work for a long time. I've been homeless for the last twelve years of my life, I get a job here and there. Whatever I do make, I got to use it to getting something to eat or find a place to stay. I've probably been paying the same fine over and over again for years because of warrants." (this is one of the summaries in the Summary of Interviews section at the end)

A \$25 fee paid to the arresting agency would continue to pay the police for the cost of the arrest and the court for their time. An individual who comes to their ability to pay hearing freely is not charged anything, yet they cost the court the same amount of time and effort as someone brought in on a warrant. Someone forcefully brought in is an opportunity for the court to motivate payment for those who can pay, but should not also be an opportunity for courts to assess additional fees. Rhode Island's disproportionately high costs and fines result in the state spending a large amount of money incarcerating people who have trouble paying these fines. The warrant fine in particular is born most heavily by indigent individuals, since they are the ones repeatedly being incarcerated. Reducing this fine will decrease the number of indigent repeat-offenders, and a \$25 fee is still high enough to provide additional incentive to come to hearings.

Family Life Center 2008

Criminal Proceedings of the New York Bar Association. Available at [http://www.nysba.org/MSTemplate.cfm?Section=Table\\_of\\_ContentsI&Site=Special\\_Committee\\_on\\_Collateral\\_Consequences\\_of\\_Criminal\\_Proceedings&Template=/ContentManagement/HTMLDisplay.cfm&ContentID=80374](http://www.nysba.org/MSTemplate.cfm?Section=Table_of_ContentsI&Site=Special_Committee_on_Collateral_Consequences_of_Criminal_Proceedings&Template=/ContentManagement/HTMLDisplay.cfm&ContentID=80374)

<sup>18</sup> The total number of prison days spent beyond 48 hours was 4610, which was multiplied by the \$9 per diem cost. In addition, the cost of one guard was included, since there was the potential to decrease the awaiting trial population by 13 people on average

### **Further Recommendations**

#### **1. Employ a variety of collection practices before incarceration**

The State of Rhode Island currently issues warrants for arrest for a single missed appointment. Although judges exercise restraint when dealing with indigent individuals who appear at ability to pay hearings, they require incarceration for individuals that are brought in on warrants. Many other states employ a variety of intermediate measures for court debt that is delinquent.

Mesa Court in Maricopa County, Arizona published an extensive report "The Facts About Collection Practices at the Mesa Municipal Court" in 2001. This report details an extensive number of collection practices that are effective. They include: late notices mailed to the individual, suspension of license, warning notices that a warrant will be issued, mass mailing to all individuals with delinquent debts, notifying credit agencies, phone calls to the individual, the place of work, and references such as family and friends. Each of the practices or a combination of these practices is more effective than summary incarceration of individuals who do not appear to hearings.

Interviews demonstrated that some sort of intermediate warning would be useful in many cases. Many individuals stated that they had forgotten about their fines or had forgotten one appointment. As discussed in the results section, most individuals either never show up to a single ability to pay hearing after their sentence or they show up to an average of three before missing one. Mailed notices or phone calls would help induce many individuals to pay.

#### **2. Accept smaller bails from individuals brought in on warrants**

People in many cases can pay something, but in most cases cannot pay the higher amounts being demanded by the court. Many individuals interviewed stated that they offered the court several payments worth of money as bail and were refused.

Instead, they spent a week in prison and then left without paying anything. As demonstrated in Figure 2, people are around three times more likely to pay smaller bails. By accepting smaller bails the courts would be more likely to receive some payment immediately and avoid spending money to incarcerate people.

#### **3. Modify Court Cost Assessment**

Court costs in Rhode Island are a fee for services rendered by the state. They are not a form of restitution or punitive fine, which are legislatively and conceptually distinct from court fines. Some costs are set at levels that parallel costs associated with a specific service, for example laboratory fees are set at a level that attempts to estimate the necessary costs of investigative laboratory work. In contrast, Victims' Fund fees, which are one third of general court fines, are meant to compensate victims of violent crimes but are assessed against non-violent offenders. Roughly one half of felonies are non-violent. Victim fund fees should only be assessed for violent felonies. They could be increased to compensate for lost revenue.

#### **4. Involve Probation and Parole Officers in debt collection**

Currently Probation and Parole officers are not involved in the process of court debt collection. Paying debt to the court is rarely a condition of probation or parole in Rhode Island. This should not be changed, because if individuals could be violated for failure to pay debt or appear at hearings this would increase the number of technical violations and time spent incarcerated. However, probation and parole officers should be aware of an individual's warrants and ability to pay hearings and keep their clients informed.

#### **5. Make it clear to all individuals that they should show up to court even if they cannot pay their fines.**

Several individuals had no idea that they should come to court even if they could not



pay, and most that did know had heard it through rumor and not through the court.

6. **Allow individuals who arrive to court in clothing not acceptable to the court, such as shorts, to reschedule their ability to pay hearing immediately.**

7. **Provide incentives for people who miss appointments to voluntarily come in.**  
Individuals expressed fear and uncertainty about going to court voluntarily after missing a hearing. After missing one appointment many grew frustrated because of the added \$125 fine and the chance that they would be incarcerated if they went back to court. Courts could clearly guarantee removing the \$125 fine for people who

voluntarily come to court after missing a hearing and guarantee that they will not be incarcerated if they have the money to make one payment.

8. **Cities in Northern Rhode Island should have a place for people to pay fines**

People from Northern Rhode Island have to travel considerable distances, often by bus, just to pay fines. A number of people interviewed miss hearings because of the difficulty of coming in and paying fines. Although there is no court in Northern Rhode Island to accept fines, a similar state agency, such as the police station, could accept fines. This would make it easier and more likely for people from Northern Rhode Island cities, particularly Woonsocket, to pay.

Warrant	125	100 general revenue 25 arresting agency
---------	-----	--

Charge*	Amount	Recipient
Misdemeanor	93.50	60 general revenue 30 victim's fund 3.50 arresting agency
Felony punishable by more than one year or a fine more than \$1,000**	273.50	180 general revenue 90 victim's fund 3.50 arresting agency
Felony punishable by more than five years**	453.50	300 general revenue 150 victim's fund 3.50 arresting agency

\* each charge is assessed a distinct court fine, although judges can restrict assessments to three charges

\*\* this refers to the potential punishable time period made possible under the statute, not the actual prison time given

### Breakdown of Court Costs Appendix 1

### Characteristics of Court Debt Related Incarceration

	Rate of Incarceration for Court Debt	Length of Incarceration(days)	Average Bail/Fine Owed
Statewide	18%	3	\$826
6th	24%	4	\$725
Providence Superior	9%	3	\$1,910
Second	14%		
Fourth	11%		
Third	20%		
Washington	3%		
Kent	5%		

### Court Fine Commitment by Court Appendix 2

		assessed	receipts		uncollected		plans	
Superior Court	2005	\$5,072,145.00	\$2,342,387.00	46.18%	\$696,002.42	13.72%	\$2,033,755.58	40.10%
	2004	\$5,186,443.00	\$2,373,929.00	45.77%	\$864,814.19	16.67%	\$1,947,699.81	37.55%
	2003	\$5,464,772.00	\$2,593,205.00	47.27%	\$815,631.42	14.93%	\$2,065,935.58	37.80%
	2002	\$5,439,522.00	\$2,544,722.00	46.78%	\$797,899.34	14.67%	\$2,096,900.66	38.55%
	2001	\$4,929,996.00	\$2,488,968.00	50.49%	\$819,407.00	16.62%	\$1,621,621.00	32.89%
	Total	\$26,092,878.00	\$12,333,211.00	47.27%	\$3,993,754.37	15.31%	\$9,765,912.63	37.43%
District	2005	\$10,073,300.00	\$8,233,667.00	81.74%	\$1,054,162.65	10.46%	\$785,470.35	7.80%
	2004	\$9,969,098.00	\$8,434,882.00	84.61%	\$762,299.56	7.65%	\$771,916.44	7.74%
	2003	\$9,819,597.00	\$8,455,574.00	86.11%	\$759,131.71	7.73%	\$604,891.29	6.16%
	2002	\$9,517,491.00	\$8,451,363.00	88.80%	\$655,478.72	6.89%	\$410,649.28	4.31%
	2001	\$9,836,470.00	\$8,887,109.00	90.35%	\$638,530.46	6.49%	\$310,830.54	3.16%
	Total	\$49,215,956.00	\$42,462,595.00	86.28%	\$3,869,603.10	7.86%	\$2,883,757.90	5.86%
District+Superior	2005	\$15,145,445.00	\$10,576,054.00	69.83%	\$1,750,165.07	11.56%	\$2,819,225.93	18.61%
	2004	\$15,155,541.00	\$10,808,811.00	71.32%	\$1,627,113.75	10.74%	\$2,719,616.25	17.94%
	2003	\$15,284,369.00	\$11,038,779.00	72.22%	\$1,574,763.13	10.30%	\$2,670,826.87	17.47%
	2002	\$14,957,013.00	\$10,996,085.00	73.52%	\$1,453,378.06	9.72%	\$2,507,549.94	16.77%
	2001	\$14,766,466.00	\$11,376,077.00	77.04%	\$1,457,937.46	9.87%	\$1,932,451.54	13.09%
	Total	\$75,308,834.00	\$54,795,806.00	72.76%	\$7,863,357.47	10.44%	\$12,649,670.53	16.90%
District+Superior+Traffic	2005	\$27,993,301.00	\$20,950,413.00	74.84%	\$4,000,115.07	14.29%	\$3,042,772.93	10.87%
	2004	\$28,995,115.00	\$22,270,493.00	76.81%	\$3,910,180.50	13.49%	\$2,814,461.50	9.71%
	2003	\$28,166,305.00	\$21,953,111.00	77.94%	\$3,486,915.56	12.38%	\$2,726,278.44	9.68%
	2002	\$26,394,962.00	\$20,560,730.00	77.90%	\$3,315,199.92	12.56%	\$2,519,052.08	9.54%
	2001	\$27,354,491.00	\$21,636,340.00	79.10%	\$3,723,653.93	13.61%	\$1,994,487.07	7.29%
	Total	\$138,904,194.00	\$107,371,087.00	77.30%	\$18,446,054.98	13.28%	\$13,087,052.02	9.42%

Court Collection Data  
provided by the Judicial Technology Center  
Appendix 4

\*\*\* NOT AN OFFICIAL DOCUMENT \*\*\*

**Case ID:**

**Court :** (DC) District Court    **Location :** (6D) 6th District Court

**Type:** M - MISDEMEANOR

Charge#	Charge	Disposition / Date	Sentence / Judge
1	SIMPLE ASSAULT	PLEA OF NOLO CONTENDERE	SUSPENDED 1 Year HIGGINS,JUDGE  PROBATION 1 Year HIGGINS,JUDGE  COURT COSTS HIGGINS,JUDGE

**Case Event Schedule**

Event	Date	Location	Judge
ABILITY TO PAY COSTS	05-JAN-2000	6th District Court	<i>unassigned</i>
ABILITY TO PAY COSTS	31-MAR-2000	6th District Court	<i>unassigned</i>

**Docket Entries**

Description	
10-NOV-1999	COMPLAINT FILED
10-NOV-1999	DFT APPEARS, ARRN, PLEADS NOLO
10-NOV-1999	DISPOSED/SENTENCED
06-JAN-2000	DEFT TO MAKE FURTHER PAYMENTS
06-JAN-2000	PET WRIT OF HABEAS CORPUS
31-MAR-2000	DEFT DOES NOT APPEAR
31-MAR-2000	BENCH WARRANT ISSUED
09-MAY-2000	BENCH WARRANT WITHDRAWN

Example of Court Case Record. Identifying information has been removed. The commitment that occurred on May 6,2000 is estimated to be caused by failure to appear for the March 31, 2000 Ability to Pay Hearing. This person showed up for one ability to pay hearing, on January 6, 2000, before missing an appointment. Their sentence did not include any court fines, only court costs.

Appendix 5

## Interview Summaries:

These are summaries of ten of the 25 interviews completed. The names have been changed to retain anonymity. They were chosen randomly from the completed interviews and reflect the overall types of situations encountered. All details relating to criminal history, bail, and payment schedule have been verified with court records.

### **Luke Brite**

"The 16<sup>th</sup> of last month, I had got out. I got out on a Saturday, and I had a court date on a Monday, and I had just done six months. I had got out, and I went to court in shorts, not knowing that I wasn't supposed to be going to court in shorts. The sheriff wouldn't let me in, so I just went home and tried to reschedule that appointment. They told me to come back before two, and I live all the way in Pawtucket, so its not an easy thing for me to go and come back like that. I tried, but I didn't make it. I made it back at like 2:30, but they told me court was over that day for court fines. So I ended up just leaving, trying to call my lawyer, telling him that I think I have a warrant. He told me the best thing for me to do was try to take care of it, knowing that I would probably do seven days. He said there's no chance of me even taking care of it. So I knew I had a warrant, you know, and I ended up just procrastinating on that warrant. One day I was with my friend, going to another friend of mines, and the police just came right into the apartment we were at."

Luke was held for eight days on a \$300 bail. He said he might have been able to pay it, but he was hoping to get the \$150/day rebate. The fines were for a misdemeanor assault charge.

### **John Gomes**

Jose has been homeless on or off for the last several years. He has not been able to work since 2002, and has SSI pending because of a chronic nerve disease, hepatitis, and diabetes. When John was arrested he owed a total of \$717 to two courts and also had a warrant for failure to appear for a restitution hearing. The restitution stood at \$450 for a 2004 forgery and counterfeiting charge. Jose's bail was \$500, and he was held for seven days before being released. Prior to failing to appear for his court fee hearings he had shown up three times.

"I can't work because I got a physical condition that keeps me from working. I got SSI and SSDI pending. I got peripheral neuropathy, chronic nerve disease. All the jobs I ever did were outdoors, I can't do that no more, or restaurant work, and I can't do that no more because I got hepatitis. A lot of times they go 'you got to come back to court on such-and-such a date or else' and when they say that 'or else' that means you are going to jail, no matter what, whether you come, whether you show up, or what. So I don't show up. Most of the money I owe is warrants, because I don't show up."

### **David Fernandes**

David has never been charged with a felony in adult court, despite a long criminal record as a juvenile. He has been without charge for four years, but has been unemployed up until recently. He regularly would not go to court fine hearings because he did not have money to pay the fines. He has been incarcerated for court fines four times in the last four years. He demonstrated significant paranoia about appearing in court. He had appeared at his hearings two consecutive times prior to the most recent missed hearing, which he missed because of a family emergency. His fines are for a simple assault misdemeanor charge from 2002. He was held on a bail of \$517.

"My son had fell from a chair, he'll be two next month. He cracked his lip, got a few stitches. I had court, but I was like oh well, my son's here, he's happy I'm here with him. I held him while he got stitches. That's priceless to me, I mean this court can wait, I'm a man, I don't care a few days in."

**Jesse McCormick**

Jesse owes \$1231.50 in fines and court costs from a driving with a suspended license conviction from early 2005. He states he was never aware that he still owed fines and had never gone to set up a payment plan. He says he would have gone and made payments had he known. He offered the court \$150 when he was picked up. Jesse was held for nine days before being released.

"I have fines for driving on a suspended license, I recently moved, totally forgot about the fines, never received anything in the mail. I had a warrant out on me for 18 months I didn't know about. They wanted half of what I owe, and I can't come up with that kind of money. Me being in here isn't doing them any good, they're not getting any money that way. I keep up with my court dates and my fines, and I haven't been in any trouble."

**Bob Davis**

Robert regularly appears at his court fine hearings and pays when he can, despite the fact that he is currently homeless and unemployed. He just finished drug rehab, and at his last Ability to Pay Hearing the judge had told him he had been doing a good job with appearing and making payments. He has SSI pending due to his Post Traumatic Stress Disorder, hepatitis, and depression, and receives treatment from the Veteran's Hospital. Bob was held for four days. In 1996 Robert plead no contest to a misdemeanor charge of "Tampering with a Motor Vehicle" and was given one year probation. He was held for four days for \$418 in fees from that charge. Robert has appeared for Ability to Pay Hearings 36 times for this fine and been incarcerated seven times for failure to appear on this case alone.

"I didn't have the money and I got scared that I was going to get locked up, so I didn't go. I pay when I can, I've been out of work for a long time. I've been homeless for the last twelve years of my life, I get a job here and there. Whatever I do make, I got to use it to getting something to eat or find a place to stay. I've probably been paying the same fine over and over again for years because of warrants."

**Charles Rice**

Charles was picked up while driving when a police officer ran his plates. His car was towed and he will owe \$300 to the towing company. He offered the judge \$200 bail, but couldn't pay the \$600 necessary. Charles is on SSI for back problems. Prior to missing his hearing he had appeared and paid at the three previous hearings. He stopped going because he couldn't make the payments anymore. This was the first time he had been incarcerated for court fines.

"I didn't know I would spend seven days, it really surprised me. I expected they'd hold me a little and then let me give them the money. There should be some kind of warning, a letter or something. Credit cards send you a letter."

**Steven Deasy**

Steven was incarcerated for eight days. He owes \$3500 to sixth district court for a combination of court fees from charges over the last several years—mostly driving with a suspended license charges. He had appeared and paid twice prior to the incarceration. He has been incarcerated several times for failure to appear at court fine hearings in the past several years. He would have paid several hundred dollars to stay out of prison.

**Terrence Peterson**

Terrence owed sixth district court \$1300 from a 2004 misdemeanor conviction of marijuana possession; he spent eight days in jail. He had appeared at his last five Ability to Pay Hearings and estimated that he had paid the courts over \$2,500 over the last four years. Terrence had just been placed in a new job by a temporary employment agency and he expected to lose the job because of his incarceration. He stated he had been paying regularly and then forgot about his payments after being briefly incarcerated—he recently served three weeks for felony assault from a Superior Court case, and his Ability to Pay hearing was several weeks after he was released.

**Lawrence Imbriglio**

Several weeks before being incarcerated for court fines Lawrence was picked up for having an open container in the parking lot of a county fair. He was released and given a summons. Lawrence appeared in court for the summons and was given a \$500 bail and sent to Providence because of outstanding failure to appear warrant. His fines are from a 2006 Driving with a Suspended License charge. He stated he had never gone to make a payment plan because he had no money, so he felt it was pointless. Lawrence had never been incarcerated before this incident. When I arrived, Lawrence had very little understanding of what was going on. He stated, "Why are they holding me here? I don't have any money. If I had money, I wouldn't be here."

Lawrence is homeless, unemployed, and has been diagnosed as a schizophrenic by the Northern Rhode Island Mental Health Center. He was incarcerated for fifteen days.

**Rhonda Harris**

Rhonda was put on probation recently for a misdemeanor assault charge. She had been seeing her probation officer regularly. She had never been aware of her ability to pay hearing and her probation officer never informed her of the warrant put out for her arrest. At five in the morning police broke into her bedroom looking for her neighbor. They ran her name and brought her to prison where she spent eight days in prison on a bail of \$243.50. Rhonda had never been incarcerated for court fines before and had been without charges since 2003 when she was convicted of possession of marijuana. She works full time and expected she would lose her job. Rhonda has been diagnosed with bipolar disorder.

**Stanley Brown**

Stanley was pulled over for having old license plates on his car. He spent eight days in prison on a bail of \$1100. He owed fines from a DUI charge from 2003. His only other charge in the last nine years was a misdemeanor assault charge in 2001. Stanley is 59 years old and on SSI for depression and post-traumatic stress syndrome. He receives treatment from the Veteran's Hospital. Prior to missing his hearing, Stanley has appeared to pay seven times for these fees and been incarcerated four times for failure to appear for these fines. He has only ever been incarcerated for court fines and almost half of his remaining fee is for warrants. Stanley lives in Woonsocket and has to wake up at six in the morning and walk two miles in order to catch the bus to arrive in Providence by nine for hearings. He stated, "If there was a court in Woonsocket I could go to and it was only 30/month, I would pay it."



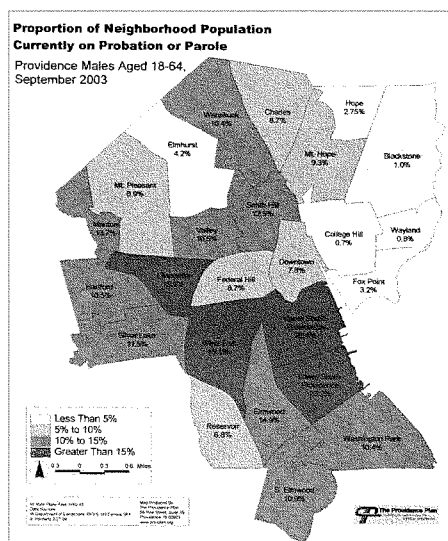
Only two states have probation systems as broken as that of Rhode Island. Although the US justice system emphasizes the importance of a fair trial and the presumption of innocence, current Rhode Island law does not provide these basic rights to people on probation. As a result, innocent people are imprisoned. **When a person on probation is charged with a new crime, they can be sent to prison for violating probation.** Even if they are not found guilty of the new charge, they remain in prison for long periods of time for the violation.

The primary source of this unjust process is the probation violation hearing. When someone on probation is accused of a new crime, the allegations are often addressed in a violation hearing, where the burden of proof is significantly lower than in a standard criminal trial. With 1 in 30 adults on probation in the state, a large portion of the allegations of new criminal conduct in Rhode Island are disposed of through these proceedings. As a result, this back-end sentencing takes on a central role in the quality of Rhode Island justice. In fact, 1 in 15 sentences to prison in Rhode Island rely on back-end sentencing, and these sentences have especially great impact on the due process provided to people of color in Rhode Island. However, only two other states (Alabama and South Dakota) provide so few rights to probationers charged with new crimes. All other states use higher standards of proof at violation hearings, making it far less likely innocent people will be sent to prison.

House Bill 5404/ Senate Bill 86, sponsored by Senator Perry and Representative Segal, almost unanimously passed the General Assembly in 2008, but were vetoed. The bill would end the prison sentence of an individual incarcerated for a probation violation if the new charge is later dismissed or the individual is found not guilty. This is already law for certain types of probation in RI, but the bill would extend the right to all types of probation.

Probation is a form of community supervision that is part of a sentence in addition to or instead of prison time. The intent of probation is rehabilitation and supervision.

There are 28,000 people in Rhode Island on probation, which means that 1 in 30 adults is on probation.<sup>1</sup> This is the fifth highest rate in the nation, and 40% higher than the national average.<sup>2</sup> In many neighborhoods in the state, more than one in



<sup>1</sup> 2008 Population Report, RI Department of Corrections. US Census 2007 Data.

<sup>2</sup> Sentencing and Corrections Profile: Rhode Island, 2007. Pew Charitable Trust.

1 in 4 adult men is on probation.

In part, this large proportion is due to Rhode Island's very long probation sentences. Sentences are an average of 5 years, about double the national average. Probation violations result in 41% of all sentences to prison in the state.<sup>3</sup> This means that since 2004 approximately 10,000 prison sentences have resulted from the probation violation process.

## Due Process

### Violation Proceedings and Back-End Sentencing

In the vast majority of cases in which people on probation are accused of new crimes, the charge is disposed of through a plea agreement. Otherwise, the defendant will receive a violation hearing. At the hearing, the state must prove that the defendant failed to keep the peace and be of good behavior through the alleged criminal or non-criminal conduct. The allegations must be proven to the reasonable satisfaction of the hearing justice. Often in these cases, if a defendant's probation is revoked at hearing, the criminal charges are dismissed. In other cases, defendants experience substantial pressure to plea because they are told that even an acquittal at trial will likely not result in their release.

Back-end sentencing relies on the revocation procedure instead of trial to prove probation violations. The Family Life Center has identified 1,436 cases since 2004 which used back-end sentencing and resulted in prison sentences (out of 21,227 total sentences to prison—approximately 1 in 15). In all these cases, probation was revoked for a new criminal charge and the new criminal charge was dismissed or in a small number the defendant was acquitted. This does not count the larger number of cases in which the defendant pleads to the new criminal charge.

The vast majority of these cases involved people charged with crimes that were not crimes of violence. 68% of the back-end sentences were the result of nonviolent or property crime accusations. In addition, most of the individuals sentenced did not have criminal histories for the more serious crimes—76% had no history of felony convictions for crimes of violence and 85% had no history of drug dealing convictions. Only .2% (33 cases out of 1,436) of the back-end sentences involved people with any history of sex-related convictions.

**"68% of the back-end sentences were the result of nonviolent or property crime accusations. In addition, most of the individuals sentenced did not have criminal histories for the more serious crimes—76% had no history of felony convictions for crimes of violence and 85% had no history of drug dealing convictions."**

### Due Process at Violation Hearings

The US Supreme Court has set minimal due process requirements for these violation hearings, however it has been up to each state to interpret and implement these standards. The US Supreme Court established that while a probation violation hearing need not fulfill all the due process standards applied to a criminal trial, a probationer's conditional liberty "includes many of the core values of unqualified liberty," and its termination inflicts a 'grievous loss' on the probationer.<sup>4</sup> In addition, a probationer can no longer be denied due process on the grounds that probation is "an act of grace."<sup>5</sup>

### State-by-State Comparison

Each state deals with probation and parole violations differently as a result of differences in case precedent, state statute, judicial discretion, and prosecutorial protocol. The clearest difference is in the standards of proof used at violation hearings. Only Rhode Island, Alabama, and South Dakota used the

<sup>3</sup> Ibid.

<sup>4</sup> US Supreme Court, *Gagnon v Scarpelli* 411 U.S. 778 (1973)

<sup>5</sup> US Supreme Court, *Morrissey v Brewer* 408 U.S. 471, 92 S.Ct. 2593 (1972)

standard "reasonably satisfied," the lowest standard possible. In Rhode Island, this standard is similar to probable cause, which is the amount of evidence needed to search a vehicle or make an arrest.<sup>6</sup>

In addition, there are many other important differences in how states conduct probation violations. The most important difference is how often the violation is prosecuted before the trial. In Rhode Island, the violation hearing almost always occurs first. In most other states this is not the case. For example, in Massachusetts, the order is determined on a case-by-case basis. A chart for 13 states is included at the end of the report.

Colorado stands out as state with a very equitable probation revocation process. According to state statute, at a violation hearing the state must prove that the defendant committed any criminal conduct beyond a reasonable doubt, though only a preponderance of evidence is required for non-criminal allegations. In practice, in almost all probation and parole cases the trial occurs before the violation hearing. Defense attorneys and prosecutors both describe this system as fair, stating that public safety is best served when the facts of the criminal allegation are first determined at trial.<sup>7</sup>

State	Standard of Proof	Violation first
Rhode Island	Reasonably Satisfied	Always
Massachusetts	Preponderance	Sometimes, often dismiss violation if acquitted
Colorado	Beyond a reasonable doubt for criminal charges	Rarely

Comparison of the violation revocation process in 3 states

#### Back-end Sentencing is Racially Biased

Back-end sentencing has a particularly large impact on the due process provided to people of color in Rhode Island. Of the 1,436 back-end sentences to prison since 2004, one half involved defendants of color. In general, people of color are disproportionately charged with crimes and sent to prison, meaning that any erosion of due process protection will affect them more significantly. The use of back-end sentencing mirrors this trend. African-American defendants sentenced using back-end sentences are 8 times more common than similar white defendants.<sup>8</sup> However, this is exacerbated by the fact that back-end sentencing was more likely to be chosen as the method of disposing of charges for defendants of color than white defendants. African-American defendants were 18% more likely to be convicted using back-end sentencing than regular sentencing in relation to white defendants.

## Sentencing

Probation is not necessarily an alternative to incarceration. In many cases it is an additional sentence. In almost all cases in Rhode Island, when an individual is sentenced to prison they also receive a lengthy suspended sentence with probation. While Rhode Island does have a relatively low incarceration rate nationally in relation to its high probation rate, these two are not mutually exclusive. Rhode Island's probation rate is the second highest in New England, after Massachusetts, but it also has the second highest rate of incarceration, after Connecticut.<sup>9</sup> This is despite having a lower rate of violent crime than both Connecticut and Massachusetts.<sup>10</sup> In addition, Rhode Island's incarceration rate has increased faster in the last seven years than any state in New England aside from Maine.

<sup>6</sup> RI Supreme Court, *Broccoli v. Kindelan* 95 A.2d 67, one of the earliest cases in which the RI standard is cited, uses the phrase "that the facts before gave reasonable and probable cause" to describe the RI standard.

<sup>7</sup> Personal correspondence, Ryan Esplin, Grand Junction Public Defender; Jeremy Savage, Grand Junction Deputy District Attorney; Todd Hildebrandt, Grand Junction District Attorney.

<sup>8</sup> This is in relation to the percentage of the Rhode Island population that is African-American (6.9%) versus Caucasian (79%).

<sup>9</sup> Bureau of Justice Statistics, *Prison Inmates at Mid-year 2008*, March 2009.

<sup>10</sup> FBI Uniform Crime Report, 2007

## Wrongful Imprisonment Cases

The 1,436 back-end sentencing cases mentioned include many cases in which the defendant was guilty and the evidence existed to obtain a conviction. However, the process vastly increases the chances of convicting innocent people. Some of these individuals are actually acquitted of the charges for which their probation is revoked. Others never receive trials but have been exonerated in other ways. These are three examples in which innocent people were sent to prison as a result of back-end sentencing.

### **Jodi Johnson Found Not Guilty- 9 year sentence**

After two years on probation without any violations, in 2001 Mr. Johnson was arrested for alleged robbery. As a result of this arrest, he was sentenced to nine years in the ACI for violation of probation. Almost two years later, a jury found him not guilty and concluded he was not the man at the scene of the crime. Despite being found innocent, he remained incarcerated for the probation violation.

### **Phillip Jackson Charge Dismissed- 7 year sentence**

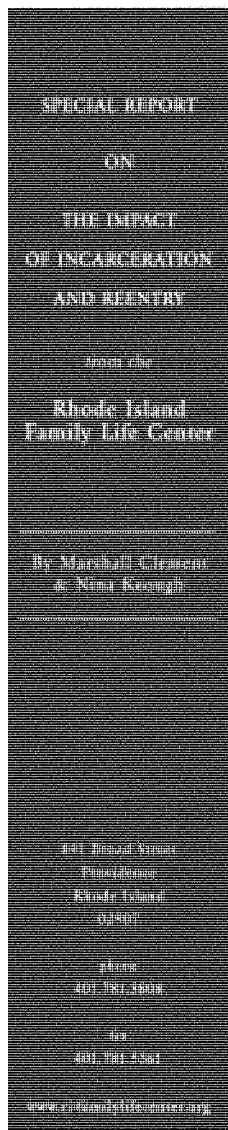
On August 21, 2006, Phillip Jackson was charged with hitting a neighbor during an argument. Jackson was on probation for a possession of a firearms charge that carried a 10 year suspended sentence. He was found to be a violator and given 7 years in prison, even though there were three witnesses who stated that he was innocent. The simple assault charge was dismissed two months later. Despite the fact that the charges were dismissed, he remained incarcerated for the probation violation.

### **John Prince Lost Violation Hearing, Maintains Innocence- 4 year sentence**

John Prince was on probation when he was accused of breaking and entering and engaging in a high-speed chase. He was sentenced to four years in prison after losing his violation hearing. The only problem is, John was in class at the time. His students and teachers all sent letters saying that John was with them, and that the wrong man was accused. However, John never received a trial and was sentenced to four years in prison after a hearing in which a judge was *reasonably satisfied* John had committed the crime. After being sentenced to prison as a probation violator, John ending up pleading no contest to the charge itself. Years later, the guilty man identified himself to John.

Probation Revocation Procedures in 13 States			
Jurisdiction	Standard of Proof	Violation before Trial	Sources
Alabama	Reasonably Satisfied	Often, but if acquitted at trial generally released	Criminal Defense Lawyer's Association; Gibson v. State, 616 A.2d 877 (1992)
Arizona	Preponderance	Rarely	Mike Kimerer, attorney at law. State v Gerlaugh, 134 Ariz. 164
California	Preponderance	Sometimes, often held at same time	San Francisco and Los Angeles Public Defenders Offices; People v Rodriguez, <i>supr.</i> , 51 Cal.3d att 447
Colorado	Reasonable doubt if a new criminal charge is involved	Rarely	Colo. Rev. Stat. Annot. S 16-11-206(3); Grand Junction Office of the Public Defender
Connecticut	Preponderance	Often, sometimes at same time	Office of the Public Defender; State v Davis 229 Conn. 285, 641 A.2d 370
Illinois	Preponderance	Often, but if acquitted at trial generally released	People v Grayson 58 Ill 2d570
Maine	Preponderance	Often	Maine Assoc. of Criminal Defense Lawyers; State v LaCasce
Maryland	Preponderance	Rarely, though often still violated on lower standard even after acquittal	Office of the Public Defender
New Hampshire	Preponderance	Depends	Public Defender; Stapleford v Perrin, 122 N.H. 1083, 1089, 453 A.2d 1304
New York	Preponderance	Depends	Alan Rosenthal, Center for Community Alternatives; People v Hemphill, 120 App. Div 2d 767
Vermont	Preponderance	Depends	State v Begins, 147 Vt. 295, 297, 514 A.2d 719
Massachusetts	Preponderance	Sometimes, often dismiss violation if acquitted	Office of Framingham Public Defender; Connollet v Holmgren 421 Mass 224
Rhode Island	Reasonably Satisfied	Always	Office of the Public Defender; State v. Znosko 755 A.2d 832, 834 (R.I. 2000)

This chart describes state-by-state law and protocol in regard to violation proceedings. The second column refers to the standard of proof used at violation hearings. The third column describes how the state deals with new criminal charges in regard to violation hearings—is the violation disposed of first or is the new criminal charge heard first. While many states may dispose of the violation first before dealing with the criminal charge, the decision is often made on a case-by-case basis and in certain cases the violation is held until after the trial or the same time as the trial. "Rarely" means that the trial comes first; "Always" means the violation comes first, and "Often" means that in most cases the violation comes first but there are significant exceptions. This information is based on state statute, case law, and conversations with attorneys in each state.



# POLITICAL PUNISHMENT

## The Consequences of Felon Disenfranchisement for Rhode Island Communities

The 2000 Presidential election in Florida, won by a mere 537 votes, was one of the most hotly contested elections in the history of the United States.<sup>1</sup> With its recounts, court challenges, and voter purges, the Florida tally raised a host of voting-rights issues. It also drew attention to the only legal means of denying the vote to U.S. citizens: felon disenfranchisement laws.

Felon disenfranchisement is the legal restriction of voting rights due to a past or current felony conviction, and it prevents approximately 4.7 million US citizens from voting nationwide.<sup>2</sup> As national elections come down to the votes of a few city blocks, policymakers are increasingly concerned with the implications of felon disenfranchisement for both election outcomes and political equity.

Most media and scholarly scrutiny has focused on Southern states, states that permanently disenfranchise, and swing states for the 2004 presidential election. But Rhode Island is home to some of the most restrictive disenfranchisement laws in the country. Rhode Island is the only state in New England that restricts voting rights not only while an individual is incarcerated for a felony conviction but for the entire duration of the sentence, including time served in the community under parole and probation supervision.<sup>3</sup>

As a result, many Rhode Islanders are denied the right to vote, and the numbers of disenfranchised are only increasing. The state's prison population has grown by 625 percent over the last 30 years.<sup>4</sup> Rhode Island's prison expansion is largely attributable to the war on drugs and tougher sentencing. In fact, 40 percent of Rhode Island's prison population is sentenced for nonviolent or drug offenses.<sup>5</sup> As a result, disenfranchisement is not a rare punishment, nor is it one reserved for Rhode Island's worst offenders. Rather, disenfranchisement affects a substantial portion of the state's population in every community.

### KEY FINDINGS

- Rhode Island disenfranchises a greater share of its residents than any other state in New England
- More than 15,500 Rhode Islanders cannot vote due to a felony conviction
- 1 in 5 black men is barred from voting statewide
- 1 in 11 Hispanic men is barred from voting statewide
- The rate of disenfranchisement in urban areas is 3.5 times the rate for the rest of the state
- More than 10 percent of South Providence residents are disenfranchised
- 86 percent of those disenfranchised are not currently in prison

Furthermore, Rhode Island's urban residents, and the state's black and Latino communities, make up a disproportionate share of those deprived of their voting rights, reducing their political power statewide.

Whether in prison or under supervision, Rhode Islanders who have been convicted of a felony are shut out of the political process, to the detriment of themselves and their communities. In neighborhoods and among racial groups disproportionately involved with the criminal justice system, felon disenfranchisement deprives them of an effective political voice.

This report answers the question: What is the impact of Rhode Island's felony disenfranchisement law on the size and nature of Rhode Island's eligible voting population?

This report estimates the proportion of adult Rhode Islanders prevented from voting due to a felony conviction. Our analysis is unique in that it moves beyond a broad state-wide analysis and compares the impact of felon disenfranchisement across Rhode Island's cities and towns, and even across neighborhoods in Providence. This level of analysis is critical to understanding the dilution of communities' political voices at all levels of government. Central to our analysis is the racial impact of this law. This report illustrates how race, gender, and geography together can have a profound affect on one's political opportunities.

Our results demonstrate that Rhode Island's felon disenfranchisement law is not an irrelevant relic of the past. Felon disenfranchisement is a powerful feature of Rhode Island's political system, and one that has lasting consequences for political representation and racial equality.

#### Felon Disenfranchisement Law in Rhode Island

According to Article II, Section 1 of the Rhode Island State Constitution, all citizens convicted of a felony lose the right to vote for the entire duration of their sentence. They may not vote while incarcerated or while living in the community on parole or probation. They are also excluded from serving on a jury for the duration of their sentence.

## Statewide Impact

Felon disenfranchisement is not a new practice for the state of Rhode Island. Felon disenfranchisement laws date back to the very first state constitution, drafted in 1842.<sup>6</sup> In the state constitution, convicted felons are also barred from serving on a jury.<sup>7</sup>

A felony conviction indicates a term of sentence greater than one year or a fine exceeding \$1,000, and a misdemeanor conviction is reserved for those sentenced to less than 1 year or those fined less than \$1,000.<sup>8</sup> Felonies may range from writing a bad check to murder. Nearly all sentences include a lengthy term of probation. Rhode Island has the second highest percentage of people on probation (3.1 percent) in the nation.<sup>9</sup> Most Rhode Islanders in prison or under community supervision have been convicted of felonies.

An estimated 15,500 Rhode Islanders are unable to vote due to a felony conviction, representing nearly 2 percent of the state's voting-age population (see Table 1). Eighty-six percent of those disenfranchised are not currently in prison. While 2,188 disenfranchised men and women are incarcerated, 13,569 of them are out of prison and living in our communities.

**86% of those disenfranchised  
are not currently in prison**

The male disenfranchised population is more than six times the size of the female disenfranchised population.

Rhode Island's black and Latino communities are disproportionately disenfranchised. The rate of disenfranchisement for black voters is over six times the statewide rate. The rate of disenfranchisement for the adult Hispanic population is 2.5 times the statewide average.

Even more striking, 20 percent of adult black men are disenfranchised, as are 9 percent of adult Hispanic men. In comparison, the rate of disenfranchisement for white males is 2 percent (see Table 1).

**TABLE 1: Statewide Population Disenfranchised: Number and Percent**

Number of ineligible voters. Percentage of given population, over 18 years old, unable to vote.

	NUMBER	PERCENT (%)
<b>Total</b>	<b>15,758</b>	<b>1.96</b>
<b>Male</b>	<b>13,405</b>	<b>3.54</b>
<b>Female</b>	<b>2,352</b>	<b>.55</b>
<b>Black</b>	<b>3,494</b>	<b>12.07</b>
Male	3,003	20.45
Female	491	3.44
<b>White</b>	<b>8,634</b>	<b>1.27</b>
Male	7,319	2.30
Female	1,315	.36
<b>Hispanic</b>	<b>2,877</b>	<b>5.12</b>
Male	2,530	9.30
Female	347	1.20
<b>Asian</b>	<b>156</b>	<b>.93</b>
Male	142	1.74
Female	14	.16
<b>American Indian</b>	<b>59</b>	<b>2.16</b>
Male	48	3.79
Female	11	.75

Source: See Technical Notes on Page 10

Percentage of town residents, over 18 years old, unable to vote



Over 4 percent of Providence's adult population cannot vote as a result of felon disenfranchisement. The second most disenfranchised city is Central Falls, where 3.9 percent of the adult population cannot vote.

For a complete discussion of the methodology and its implications for the analysis, see page 10 of this report.



## Urban Impact

**In both Providence and  
Newport, more than 1 in 4  
black men cannot vote.**

**In Woonsocket, West  
Warwick, East Providence,  
and Pawtucket, more than  
1 in 10 Hispanic men  
cannot vote.**

Table 2 provides a more complete picture of the impact in Rhode Island's urban areas by demonstrating the rate of disenfranchisement for each racial group, by gender, for the state's eight most urban municipalities.

While the rates of disenfranchisement are greater in urban areas, regardless of race, those for the black community are disproportionately high. In every city and town, black residents are disenfranchised at least 4 times as often as white ones. In both Providence and Newport more than 1 in 4 black men cannot vote.

Hispanics also have higher rates of disenfranchisement than urban residents as a whole. In Woonsocket, home to the most disenfranchised Hispanic population, more than one out of every seven Hispanic men cannot vote.

White residents are disenfranchised less, on average, than black and Hispanic residents. The most disenfranchised white population is found in Central Falls, where just over 3 percent of the adult population cannot vote.

In Newport, we find the greatest racial disparity in disenfranchisement rates for white men versus black men in the state. Newport's rate of disenfranchisement for black men is 11 times that of white men.

Across Rhode Island's urban areas, an alarming proportion of the state's black and Hispanic residents are barred from the polls. In denying voting rights to so many black and Hispanic residents, felon disenfranchisement substantially reduces the political power of *entire* communities, in both local and statewide elections. Equal opportunity in political representation is impossible without equal representation at the polls.

**TABLE 2: Disenfranchisement in Urban Rhode Island: Race and Gender**

Percentage of given population, over 18 years old, unable to vote in each town. (e.g. 5.5% of white males in Central Falls are disenfranchised.)

	TOTAL			WHITE			BLACK			HISPANIC		
	TOTAL	MALE	FEMALE	TOTAL	MALE	FEMALE	TOTAL	MALE	FEMALE	TOTAL	MALE	FEMALE
	%	%	%	%	%	%	%	%	%	%	%	%
<b>Urban Core</b>												
Central Falls	3.9	6.9	1.1	3.1	5.5	1.2	13.8	20.8	3.2	4.1	7.4	.7
Pawtucket	3.1	5.6	.9	2.2	4.0	.6	10.5	17.5	2.8	6.5	11.8	1.6
Providence	4.3	7.7	1.3	2.1	3.7	.7	14.5	26.3	4.3	5.3	9.6	1.3
Newport	2.3	4.1	.6	1.4	2.4	.4	14.8	26.5	3.2	2.9	5.1	.5
Woonsocket	2.9	5.2	.9	2.1	3.8	.7	12.5	19.9	3.8	7.9	15.9	1.6
<b>Urban Ring</b>												
Cranston	1.3	2.4	.4	1.2	2.2	.3	7.0	10.3	3.0	2.3	4.0	.9
East Providence	1.3	2.6	.3	1.1	2.0	.3	6.6	13.1	1.0	5.3	12.3	.3
North Providence	1.5	2.8	.5	1.4	2.5	.4	5.8	9.4	2.3	2.8	5.8	.2
Warwick	1.3	2.4	.3	1.2	2.3	.3	5.1	8.0	1.8	3.1	5.3	1.1
West Warwick	2.0	1.2	2.7	1.8	3.3	.5	18.3	15.0	3.3	15.6	14.1	1.6

Source: See Technical Notes on Page 10

## Impact on Providence

Providence may be Rhode Island's economic, cultural, and political hub, but it is also marked by profound economic inequality.<sup>10</sup> The median family income in the College Hill neighborhood is \$120,783 per year, whereas the median family income in Olneyville is less than \$20,000.<sup>11</sup> 24 percent of Providence families live in poverty.<sup>12</sup> Providence is the most incarcerated city in the state. While Providence residents make up only 17 percent of the state's population, 38 percent of the prison population is from Providence.

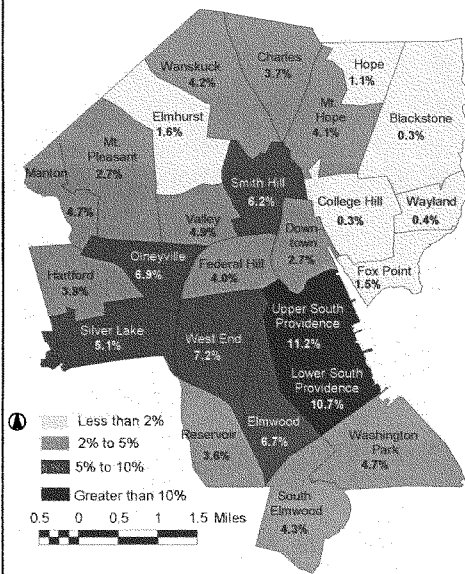
Over 5,000 Providence residents are unable to vote as a result of a felony conviction. 85 percent of those disenfranchised are out of prison, living in the city.

While Providence is the most disenfranchised city in the state, there is considerable variation in the distribution of that population. In some neighborhoods, felon disenfranchisement restricts voting rights for less than one percent of the population, while in others, more than one in ten residents is restricted.

More than half of the disenfranchised population lives in just seven neighborhoods. Upper and Lower South Providence, the most disenfranchised neighborhoods in the city, lose more than 10 percent of their voting population. By way of comparison, the neighborhoods of Blackstone, College Hill, and Wayland lose less than one percent of their voting population. The rate of disenfranchisement in Upper South Providence is over 35 times the rate in Blackstone.

This analysis demonstrates that felon disenfranchisement does not only punish the felon, but the entire neighborhood. In statewide and citywide elections, the neighborhoods of Upper and Lower South Providence cannot represent their interests in the way East Side neighborhoods can, because so many of their residents are barred from casting a vote. If crime affects entire communities, so too does the loss of voting rights for large numbers of residents. It's not only felons who suffer a loss of political voice, but their neighbors as well.

**FIGURE 2: Disenfranchisement in Providence**  
Percentage of residents, over 18 years old, unable to vote in each neighborhood.



Source: See Technical Notes on Page 10

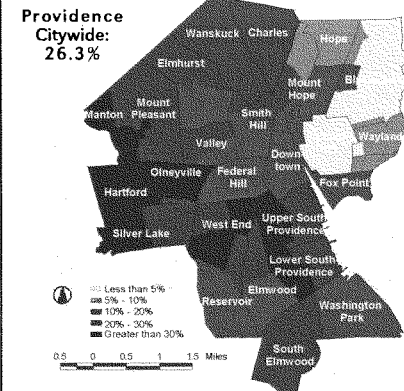
**TABLE 3: Disenfranchised in Providence: by Gender**

Number of ineligible voters of each gender per neighborhood. Percentage of given population, over 18 years old, unable to vote.

	MALE		FEMALE	
	#	%	#	%
Blackstone	16	.6	3	.1
Charles	147	6.3	35	1.4
College Hill	23	.6	2	-
Downtown	59	4.8	10	.8
Elmhurst	121	2.8	31	.6
Elmwood	419	12.5	79	1.9
Federal Hill	205	6.8	42	1.4
Fox Point	56	2.7	6	.3
Hartford	132	7.2	20	.9
Hope	25	1.9	5	.3
Lower South Prov.	300	19.0	77	3.9
Manton	78	8.6	18	1.6
Mount Hope	137	8.0	26	1.1
Mount Pleasant	174	4.9	31	.7
Olneyville	245	11.9	50	2.3
Reservoir	57	6.5	15	1.4
Silver Lake	296	8.5	83	2.1
Smith Hill	202	11.4	36	1.8
South Elmwood	61	8.5	7	.8
Upper South Prov.	317	19.8	62	3.5
Valley	122	8.2	25	1.6
Wanskuck	273	7.9	53	1.3
Washington Park	213	8.6	31	1.2
Wayland	11	.8	-	-
West End	624	13.0	112	2.1

Source: See Technical Notes on Page 10

**FIGURE 3: Black Men Disenfranchised in Providence**  
Percentage of black male population, over 18 years old, unable to vote in each census tract.



Source: See Technical Notes on Page 10

## Racial Impact

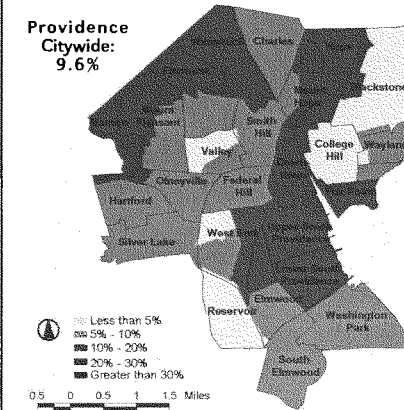
Providence is one of the most diverse cities in the state. While Providence claims 17 percent of the state's population, it is home to 50 percent of the state's nonwhite population.<sup>13</sup> 12.7 percent of Providence residents are black or African American, compared to 5 percent for the state as a whole. 30 percent of its residents are Hispanic, compared to 8.6 percent statewide. Furthermore, the Hispanic population in Providence has doubled in the last ten years.<sup>14</sup>

Black men are the most disenfranchised group in the city. Rates of disenfranchisement for adult black men exceed the state average in more than half of all Providence neighborhoods. More than 40 percent of black men cannot vote in some parts of South Providence, the West End, Silver Lake and Olneyville.

Hispanic men have the second highest rate of disenfranchisement. Nearly 1 in 10 Hispanic men in Providence have lost their voting rights. More than 15 percent cannot vote in parts of the West End.

Table 4 indicates that men ages 18-35 are the most disenfranchised population in the state. Residents of the Southside of Providence are the most disenfranchised, where 2 out of every 5 black men, ages 18-34, cannot vote. The rates of disenfranchisement for Asian and white men on the Southside is more than four times their rates statewide.

**FIGURE 4: Hispanic Men Disenfranchised in Providence**  
Percentage of Hispanic male population, over 18 years old, unable to vote in each census tract.



Source: See Technical Notes on Page 10

**TABLE 4: Disenfranchised Men: 18-34 years old**  
Percentage of given male population, ages 18-34, unable to vote.

	RI	Providence	Southside*
	%	%	%
<b>Total</b>	5.0	8.0	15.7
<b>White</b>	3.3	3.3	10.4
<b>Black</b>	24.8	32.1	40.0
<b>Hispanic</b>	10.0	10.4	10.9
<b>Asian</b>	2.3	2.8	7.1
<b>AIAN**</b>	4.5	2.9	8.6

\* Southside refers to four Providence neighborhoods: West End, Elmwood, Upper South Providence, and Lower South Providence.

\*\* AIAN is a U.S. Census category abbreviation for American Indian or Alaskan Native.

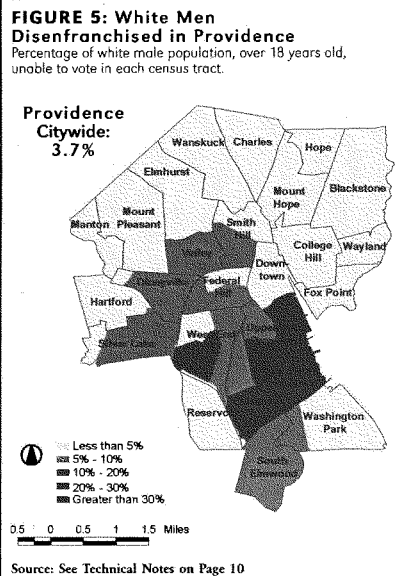
Source: See Technical Notes on Page 10

Providence has a smaller white population (45.8%) than the rest of the state (81%). Although the Asian and Asian American population in Providence is small (5.9%) it amounts to 44 percent of the Asian population statewide. Less than 1 percent of Providence residents are American Indian or Alaskan Natives.<sup>15</sup>

White men are less disenfranchised than black or Hispanic men in every neighborhood in Providence. In the most disenfranchised neighborhoods, on the Southside, 8 percent to 28 percent of white men cannot vote.

Asian men are the least disenfranchised (2.2%) group in the city, but are disproportionately concentrated in certain neighborhoods. While in most of the city less than 5% are disenfranchised, in parts of two neighborhoods (Lower South Providence and the West End) more than 14 percent of Asian men cannot vote.

There is substantial variation in the disenfranchisement of American Indian and Alaskan Native men. In most of the city, no American Indian or Alaskan Native men are disenfranchised, reflecting the small size of their populations. Where present, though, American Indian and Alaskan Native men have some of the highest rates of disenfranchisement in the city. In parts of Smith Hill and the West End, 20 to 30 percent of American Indian or Alaskan Native men are disenfranchised.



## Conclusion: Political Consequences of Felon Disenfranchisement

*Felon  
disenfranchisement  
dramatically diminishes the  
political power of cities and  
neighborhoods.  
With this loss of electoral  
power, the neighbors of  
felons are subjected to some  
of the same punishments as  
felons themselves.*

In this report, we examine the impact of Rhode Island's felony disenfranchisement law on the size and nature of eligible voting populations across the state. Our study finds that urban areas lose the largest share of their voting population under the law. Providence loses more of its voters than any other town. Furthermore, within the city of Providence, we found enormous disparity in the rates of disenfranchisement across neighborhoods, with some neighborhoods losing the votes of more than 10 percent of their residents.

The racial impact of felon disenfranchisement is troubling. A full 12 percent of African-Americans are disqualified from voting. More than 20 percent of black men cannot vote, 1 out of 5 statewide. 5 percent of Rhode Island's Hispanic population cannot vote, and over 9 percent of Hispanic men. At the municipal level, rates of disenfranchisement for black and Hispanic residents are even higher. Up to 25 percent of black men are disenfranchised in some cities, and, in others, 18 percent of Hispanic men cannot vote. In some neighborhoods in Providence, over 40 percent of the young black male population is barred from the political process.

Comparisons by race, gender, and region show that felon disenfranchisement is more than a personal punishment for the offender. Felon disenfranchisement dramatically diminishes the political power of cities and neighborhoods. In statewide and citywide elections, communities with high incarceration rates lose a disproportionate share of their voting population, and with it, electoral clout. With this loss of electoral power, the neighbors of felons are consequently subjected to some of the same punishments as felons themselves.

Felon disenfranchisement has significant consequences for racial equality in political representation in Rhode Island. Community advocates have long fought to redraw district boundaries to ensure majority status for a particular racial group. Racial disparities in felony disenfranchisement, and the dilution of political power in Rhode Island's communities of color, reverse this important effort and undermine the fairness of our political system.

Felon disenfranchisement does nothing to improve public safety in Rhode Island. Restricting voting rights does not prevent felons from committing crimes. It does not provide compensation to victims, nor does it rehabilitate the person convicted of a felony.<sup>16</sup>

Expanding the franchise for people on probation or parole may actually increase public safety. 99 percent of those who enter Rhode Island prisons will eventually be released. Encouraging felons to engage in society, through their behavior, but also through political expression, may in fact help them commit to a positive life. Participation in the electoral process may help people with felony records develop a sense of social responsibility, community, and civic engagement.<sup>17</sup> Re-enfranchisement could be a vital step in the reentry process.

Most Americans support extending voting rights to ex-felons. A recent survey found that 80 percent of respondents believe that ex-felons who have served their entire sentence, regardless of type of offense or length of sentence, should have the right to vote. Additionally, 64 percent maintain that people on probation and living in their communities should have the right to vote.<sup>18</sup>

Many states have recently reconsidered and revised their felony disenfranchisement laws. The states of Nevada, Pennsylvania, Delaware, New Hampshire, Wyoming, Alabama, Texas, Virginia, New Mexico, and Maryland have already enacted legislation to expand the voting rights of formerly incarcerated individuals. In 2001, Connecticut's legislature voted to remove the ban for probationers, leaving Rhode Island as the only New England state with such restrictive practices.<sup>19</sup>

Rhode Island has received national attention on the issue of prisoner reentry, rehabilitation, and public safety. In order to maintain a reputation for national excellence, Rhode Island must revisit the issue of felon disenfranchisement.

### Note on Race Definitions

Definitions of race vary from study to study. This study requires a comparison between two data sources: the 2000 United States Census and the Rhode Island Department of Corrections (RIDOC) INFACIS data system. Population totals reflect the 2000 United States Census definitions of race. Data used to estimate disenfranchisement totals reflect racial definitions used by RIDOC. Estimating the proportion of a given racial population disenfranchised thus required a comparison of incongruous definitions of race.

When the study refers to white individuals, 2000 Census estimates refer to all individuals who reported an ethnicity of non-Hispanic and only one race: white. The RIDOC data estimates refer to all individuals who self-reported the race white, and may include Hispanic whites as well as multiracial individuals. As a result of a more limited Census category, white disenfranchisement estimates are slightly increased.

When the study refers to black individuals, 2000 Census estimates refer to all individuals who reported an ethnicity of non-Hispanic and only one race: black or African-American. The RIDOC data estimates refer to all individuals who self-reported the race black and may include Hispanic blacks as well as multiracial individuals. As a result of a more limited Census definition, black disenfranchisement estimates are slightly higher.

When the study refers to Hispanic, 2000 Census estimates refer to all individuals who reported the ethnicity Hispanic and any other race. The RIDOC data estimates refer to all individuals who self-reported the race Hispanic. This comparison slightly underestimates the disenfranchised Hispanic population.

When the study refers to Asian individuals, 2000 Census estimates refer to all individuals who reported an ethnicity of non-Hispanic and only one race: Asian or Pacific Islander. The RIDOC data estimates refer to all individuals who self-reported the race Asian and may include Hispanic Asians as well as multiracial individuals. This comparison likely had little impact on Asian or Pacific Islander disenfranchisement estimates.

When the study refers to American Indian or Alaskan Native, 2000 Census estimates refer to all individuals who reported an ethnicity of non-Hispanic and only one race: American Indian or Alaskan Native. The RIDOC data estimates refer to all individuals who self-reported the race American Indian and may include Hispanic American Indians as well as multiracial individuals. This comparison likely had little impact on Asian or Pacific Islander disenfranchisement rates, although Alaskan Natives did not likely report American Indian to RIDOC.

### End Notes

- 1 David Gonzales, "The 2000 Election; Protesters; Jesse Jackson Demands Inquiry on Florida Vote," *The New York Times*, 10 November 2000, Section A, p. 27.
- 2 Alec Ewald, Demos: A Network for Ideas and Action, *Punishing at the Polls: The Case Against Disenfranchising Citizens With Felony Convictions* (24 November 2003), 13. < <http://www.demos-usa.org/pub109.cfm>>
- 3 Patricia Allard & Marc Mauer, The Sentencing Project, *Regaining the Right to Vote: An Assessment of Activity Relating to Felon Disenfranchisement Laws* (January 2002) <[http://sentencingproject.org/pubs\\_05.cfm](http://sentencingproject.org/pubs_05.cfm)>
- 4 Leo Carroll, *Lawful Order: A Case Study of Correctional Crisis and Reform* (New York: Garland Publishing, Inc., 1999), 329-330; Rhode Island Department of Corrections. *2003 Annual Report*. Cranston, RI: Rhode Island Department of Corrections, 2003.
- 5 Carroll, 213-16; Rhode Island Department of Corrections, *2003 Annual Report*, 14.
- 6 Christopher Uggen & Jeff Manza, The Sentencing Project, "Summary of Changes to State Felon Disfranchisement Law 1865-2003," (April 2003) <[http://sentencingproject.org/pubs\\_05.cfm](http://sentencingproject.org/pubs_05.cfm)>
- 7 Rhode Island State Constitution, Article II, Section 1.
- 8 Rhode Island General Laws, Section 11-1-2.
- 9 Lauren Glaze & Seri Fala, "Probation and Parole in the United States, 2003," Bureau of Justice Statistics Bulletin, Office of Justice Programs, July 2004.
- 10 The Providence Plan, "Presentation to Mayor Cicilline's Transition Working Groups," Powerpoint Presentation, November 26, 2002. Available at <[http://www.provplan.com/download/CTT\\_Final.ppt](http://www.provplan.com/download/CTT_Final.ppt)>
- 11 The Providence Plan, "2000 Median Family Income Summary Table." Available at <[http://provplan.org/nprof/cw\\_mrecon.html](http://provplan.org/nprof/cw_mrecon.html)>
- 12 The Providence Plan, "Census Quick Fact Sheet". Available at <<http://www.provplan.com/nprof/censummary.html>>
- 13 The Providence Plan, "Presentation to Mayor Cicilline's Transition Working Groups."
- 14 Ibid.
- 15 The Providence Plan, "2000 Racial and Ethnic Breakdown", Available at <<http://www.provplan.com/nprof/charts/compbie.gif>> & U.S. Census Bureau, 2000 Census of Population and Housing, *Summary Population and Housing Characteristics*, PHC-1-41, Rhode Island (Washington, DC, 2002) p. 19. Available at <<http://www.census.gov/prod/cen2000/phc-1-41.pdf>>
- 16 Ewald, 23-24.
- 17 Christopher Uggen, "Barriers to Democratic Participation," paper presented at the third Reentry Roundtable on Prisoner Reentry and the Institutions of Civil Society: Bridges and Barriers to Successful Reintegration. (Washington, D.C.: Urban Institute, March 2002).
- 18 Jeff Manza, Clem Brooks, and Christopher Uggen, "Civil Deaths or Civil Rights? Public Attitudes Towards Felon Disenfranchisement in the United States," upcoming in *Public Opinion Quarterly*. (Volume 68), 2004
- 19 Allard & Mauer.

### Technical Notes

#### Data Sources

1. Rhode Island Department of Corrections Data Files of Sentenced and Supervised Offenders. As of September 30, 2003.
2. Census 2000. SF1: PCT12 Sex by Age; PCT12H Sex by Age (Hispanic or Latino); PCT12I Sex by Age (White Alone, Hispanic or Latino); PCT12J Sex by Age (Black Alone, Hispanic or Latino); PCT12K Sex by Age (AIAN Alone, Hispanic or Latino); PCT12L Sex by Age (Asian Alone, Hispanic or Latino).

#### Methodology

Given the absence of a completely accurate database of individuals currently serving felony sentences in prison, on parole, or probation, this study used RIDOC data to best estimate the impact of felon disenfranchisement laws. Throughout this study we designated individuals as disenfranchised if they had a felony designation in either the sentenced data file or probation and parole data file, they were 18 years or older, and (based on their address) were a Rhode Island resident.

A felony designation, however, indicates an indictment rather than conviction in the sentenced data file and in the probation and parole data file. Since no accessible database exists with conviction data for people currently in prison or on probation or parole, this study uses indictment data in order to estimate rates of disenfranchisement, resulting in a small degree of overestimation. In order to gauge the degree of overestimation caused by the use of indictment data, a randomly selected sample was examined. From those people on probation or parole predicted to be disenfranchised based on indictment data, a random sample of 143 cases were cross-examined with information publicly available from the Rhode Island Judiciary. Of these, 119 case identification numbers matched data from the courts and of these, 95.8 percent were reported as having also been convicted of a felony, while only 4.2 percent had been convicted of a misdemeanor. Given this sample and using a 95 percent confidence level, this estimation has a confidence interval of plus/minus 3.9 percent. Reliance on indictment data to estimate felon disenfranchisement complicates this research and similar studies in other states as well. In order to arrive at the closest estimate possible we use indictment data while taking measures that underestimate the disenfranchised population in later parts of the analysis.

Since people in Rhode Island's criminal justice system are not all residents of this state, this study determined residency in the following manner. Using the last known self-reported address in RIDOC data files, only records *without* an out of state address were considered Rhode Island residents. Records were then geocoded to census tract and Providence neighborhood levels. 688 records (4.4 percent) did not contain sufficient address information to geocode by municipality. An additional 411 records (7.4 percent) were without sufficient information to geocode to Providence neighborhoods. The removal of these records from municipal and Providence analyses results in an underestimation of the disenfranchised populations.

Due to sentencing laws in Rhode Island, some individuals appear in both the sentenced and the probation and parole data files. Prisoners serving probation for a felony conviction while incarcerated for a misdemeanor conviction were removed

from the analysis, resulting in underestimation. Both RIDOC databases collect multiple offenses for each offender. All but one most serious charge was considered for each offender for the purposes of this study.

Citizenship and its impact on voting eligibility were not taken into account for the purpose of this analysis. Both the census data and the estimated disenfranchised population were not scanned for citizenship.

Missing values in the data file for race, gender, or address resulted in those records being removed from the analysis. This further underestimates the disenfranchised population.

The population against which the estimated disenfranchised population is compared for rates and percentages comes from 2000 Census estimates of population over 18, or ages 18-34 in Table 4.

Population estimates were also adjusted to correct for the Census miscounting prisoners as residents where the prison is located. To account for incarcerated residents, denoted as Cranston residents in the 2000 Census (location of the Adult Correctional Institutions (ACI)), population estimates reflect the 2000 population total, over 18 years old, for the given location with the addition of current inmates living in those localities directly prior to conviction (which remains their address according to Rhode Island's election statute section 17-1-3.1). Estimates of the Cranston population denote Cranston residents in the 2000 Census, with the addition of inmates living in Cranston prior to conviction, and the subtraction of the total ACI population. This methodology was used consistently across estimates for all racial and gender breakdowns, reducing both the underestimation that otherwise would have resulted from using mistakenly higher Census population estimates in Cranston and the overestimation that would have resulted from using lower Census population estimates in all other localities. Rates of disenfranchisement per locality represent the total estimated disenfranchised divided by the total adjusted population, 18 and over, using the above changes to the Census.

Despite the imperfections in both the RIDOC data files and the 2000 Census as data sources for this study, they are the best and only sources available. Throughout this study, we have tried to arrive at a conservative estimate of Rhode Island's disenfranchised population. The lack of conviction data for individuals on probation and parole presents an initial and unknown degree of overestimation. Throughout the rest of the analysis, however, we have taken measures that underestimate to both known and unknown degrees. On the balance, we feel as though the methodology employed and described above provides the best possible estimation of Rhode Island's disenfranchised population to date.

**Acknowledgments**

This study would not have been possible without the support of a number of organizations: The Providence Plan, Rhode Island Department of Corrections Planning & Research Unit, Urban Institute's Reentry Mapping Network, and the Annie E. Casey Foundation. The findings of this report do not represent the conclusions or opinions of the Rhode Island Department of Corrections.

Special thanks to: Jim Vandermillen, Ethan Horowitz, Holly Harriel, Jen Olivelli, Ray Perault, Pat McGuigan, Ross Cheit, Nancy LaVigne, Marc Mauer, and Laleh Ispahani.

The Right to Vote Campaign provided generous funding to support the printing and distribution of this report.

**RI Family Life Center**  
841 Broad Street  
Providence, Rhode Island 02907

[www.ri-familylifecenter.org](http://www.ri-familylifecenter.org)



SPECIAL REPORT  
ON  
THE IMPACT OF  
INCARCERATION &  
REENTRY  
for  
MAKING CONNECTIONS  
PROVIDENCE

RHODE ISLAND  
FAMILY LIFE CENTER

The Family Life Center  
promotes community safety  
by supporting and advocating  
for formerly incarcerated  
individuals and their families.

841 Broad Street  
Providence, Rhode Island  
02907

PHONE  
401.701.7600

FAX  
401.701.5457

[www.ri-familylifecenter.org](http://www.ri-familylifecenter.org)

**“We are here to stay.”**

-K., FORMERLY INCARCERATED, HOMELESS



## The Consequences of Housing Discrimination Against People with Criminal Records

June 2005

## Acknowledgements

In partnership with Making Connections Providence, the Rhode Island Family Life Center is conducting research and designing solutions to housing discrimination faced by people recently released from incarceration and with criminal records. Making Connections Providence, a program of the Annie E. Casey Foundation, provided generous funding for the research, writing and publication of this report. A number of individuals contributed to this report by lending their time and expertise. The Family Life Center thanks the members of the FLC/CDC Housing Action Group of Making Connections Providence, all of whom provided oversight and advice. In particular, Jim Alexander, John Prince, Nancy Howard, Robyn Frye, Alvin John and Michelle Malloy offered invaluable assistance. The Family Life Center is also grateful to the following individuals, who were interviewed as part of this research: Robyn Frye, Nancy Howard, Rosemarie Amato, Amy Rainone, and Stephen O'Rourke. The Family Life Center also thanks Betsy Grenier for editing the report. Finally, the research team is deeply grateful for the willingness, time and honesty of the eighteen focus group participants, who continue to face housing discrimination in various ways and whose experiences form the basis for this report.

The findings of this report do not represent the conclusions or opinions of the Annie E. Casey Foundation, project supporters or the action group members who provided input into this document.

Supervised and directed by Solangel Rodriguez and Ronn Fortes

Researched and authored by Daniel Schleifer and Marshall Clement

Cover photo by Carol Highsmith for the Annie E. Casey Foundation

Copyright © 2005 by the Rhode Island Family Life Center

Rhode Island Family Life Center  
841 Broad Street  
Providence, Rhode Island 02907

[www.ri-familylifecenter.org](http://www.ri-familylifecenter.org)

## Table of Contents

4	<i>The Family Life Center/CDC Housing Action Group of Making Connections Providence</i>
5	<b>Executive Summary and Report Overview</b>
7	<b>Chapter 1</b> Risk, Disruption, and Reentry: The Causes and Consequences of Housing Instability
21	<b>Chapter 2</b> No Open Doors: Housing Discrimination Against People with Criminal Records
37	<b>Chapter 3</b> Towards Stable and Safe Communities: Recommendations for Preserving, Stabilizing and Expanding Housing for the Formerly Incarcerated
51	<b>Appendix A</b> Focus Group Procedure and Participants' Backgrounds/Histories
55	<b>Appendix B</b> Additional Focus Group Experiences and Perspectives on Housing
59	<b>Appendix C</b> What's Accessible: Emergency, Transitional and Supportive Housing Programs in Providence and their Policies Regarding People with Criminal Records

## **The Family Life Center/CDC Housing Action Group of Making Connection Providence**

The Making Connections Initiative, a project of the Annie E. Casey Foundation, works in low-income neighborhoods in 22 cities to foster programs, activities and policies that promote strong families. Until May of 2005, the Providence Making Connections Initiative worked through 12 Action Groups, each focused on one of four result areas (neighborhoods, housing, education, and jobs/family assets). The Family Life Center/CDC housing group formed in the summer of 2004, with two primary tasks. First, the team was to research the barriers to housing experienced by formerly incarcerated residents of the four neighborhoods in the Making Connections Providence target area: Upper South Providence, Lower South Providence, Elmwood and the West End. Second, the team was to initiate programming to address this issue. The entire team was instrumental in the development of this report.

### **Team Members:**

Team Leader: Ronn Fortes, Administrative Assistant, Family Life Center

Jim Alexander, Executive Director, Allen Ministries Enriching Neighborhoods, Inc.

Marshall Clement, Policy Research Coordinator, Family Life Center

Robin Frye, Director of Community Relations, West Elmwood Housing Development Corporation

Nancy Howard, Coordinator, Community Safety Initiative/LJSC, Rhode Island

Alvin J. John, Housing Coordinator, Amos House

Michelle Malloy, Associate Director, Corporation for Supportive Housing

John Prince, Community Organizer, Making Connections Providence

Sol Rodriguez, Executive Director, Family Life Center

Daniel Schleifer, AmeriCorps\*VISTA Policy Research Specialist, Family Life Center

## Executive Summary

Everyone released from prison must ask, "Where will I sleep tonight?" This year, approximately 1,200 Providence residents, 350 of them from the Southside, will face this question, and the answer is often uncertain. Recently released from prison, these individuals rarely have the means to rent in the private market, and when they do, landlords discriminate against them. They often have no supportive family to house them, are prohibited from entering public housing for ten years, and cannot secure transitional or supportive housing. For many, emergency shelters, the streets or illegal apartment sharing are the only options.

Individuals with criminal records have trouble accessing all major forms of housing

Yearly, about 200 people returning from prison to Providence go homeless, and they are only one group facing unstable housing because of incarceration. Other ex-prisoners may live illegally in unsafe tenements without a lease, or in overcrowded apartments, burdening family members. Further, families themselves can also face unstable housing because of the incarceration or the return of a loved one.

The result is unstable housing for former prisoners and their families

Unstable housing compounds the myriad challenges (finding a job, rebuilding family, staying sober, etc.) that former prisoners face, making it more difficult to avoid recidivism and reincarceration. Further, when families of the formerly incarcerated experience housing instability, they inherit the same risks that their loved ones face —risks that can lead to prison. Housing is a life area through which the "ripple effects" of incarceration on families and communities travel.

A vicious, expanding cycle: unstable housing renews and spreads the factors that lead to crime and incarceration

Rhode Island's housing market has tightened tremendously in recent years. Average rent for a studio apartment in 2003 was \$697, an 11 percent increase from 2002; in the same year, median income statewide only increased by one-half percent. To ensure that all have shelter and no one is paying too much for it by 2010, Rhode Island needs an estimated 37,000 new units of affordable housing, and 50,000 Rhode Island families need subsidies. In this context, discrimination is likely, and groups that are not protected by Rhode Island's fair housing law, such as people with criminal records, are the only legal targets of discrimination.

RI's housing market is very tight and the fair housing law does not protect former prisoners

The two largest providers of housing in the state, the rental market and public housing, discriminate in policy and practice against individuals with criminal records and their families. Further, there is little transitional and permanent supportive housing, and many of these units have restrictions against people with records. Of the 380 transitional housing beds in Providence, just 74 are reasonably accessible to recently released single individuals. Likewise, only 74 of the 450 supportive housing beds in Providence are reasonably accessible to former prisoners. Competition for these beds is high, and turnover is low.

Public housing and the private market discriminate, and housing with supportive services is in short supply

Stable housing for former prisoners and their families is a public safety issue. When former prisoners fail to find safe housing, they may recidivate and be consequently returned to the Adult Correctional Institutions (ACI), which

The system waits for individuals to slip before intervening

provide fully state-subsidized housing for 3,500 people. Affordable housing in Rhode Island is a scarce resource, provided according to a system that is reactive and exclusionary. It supports only the most responsible, the convicted, and those awaiting trial—but not those who are vulnerable and at-risk.

Existing housing must become less discriminatory and more stable, but we also need new housing for everybody in order to not simply displace risk. Rhode Island can take one of two approaches to meet the housing needs of individuals with criminal records and their families. We can continue to avoid the risk they pose through exclusionary policies, and suffer the consequences of crime, homelessness, family instability and a growing prison budget. Or we can work to prevent further victimization by pro-actively mitigating risk while maintaining an inclusive process that ensures safe and supportive housing opportunities for everyone.

## Report Overview

**Chapter One** contains the majority of the findings from two focus groups conducted at the Family Life Center. Key findings:

- There is a cyclical relationship between incarceration, housing instability and the risk factors that lead to prison.
- Unstable housing is one way that risks associated with crime and incarceration spread from individuals to families and communities.
- Strong, positive family relationships and intensive case management are good indicators for individuals finding more stable housing.

**Chapter Two** describes the major types of housing providers in Providence and their policies and practices regarding former prisoners. Significant findings:

- Most housing providers discriminate against the formerly incarcerated.
- Transitional and supportive housing providers offer a good model for ex-offender housing, but there is not enough of this service-oriented housing to meet the demand, nor is it reasonably accessible to former prisoners.
- Discrimination against individuals with criminal records, although legal, undermines the intent of Rhode Island's Fair Housing Practices Act.

**Chapter Three** is a comprehensive set of recommendations for providing more stable housing to ex-prisoners and their families while taking into account the severe burdens already in place on affordable housing for *all* low-income Rhode Islanders. The recommendations cover two broad strategy areas: making current housing resources more stable and more accessible for the formerly incarcerated and creating new, non-discriminatory housing resources for all.

**Appendix A** contains the focus group methodology and background information on participants; **Appendix B** contains additional information from the focus groups, and **Appendix C** is the results of a capacity and accessibility survey conducted of transitional and supportive housing providers in Providence.

## 1

## Risk, Disruption and Reentry: The Causes and Consequences of Housing Instability

### Section Summary

Many residents of Providence's Southside have chronically unstable housing due to a criminal record, their incarceration and/or the incarceration of a loved one. The Family Life Center convened two focus groups of 18 such individuals to understand interactions between incarceration and housing.

The relationship appears to be cyclical; incarceration and the specter of a criminal record destabilize housing for individuals and families. In turn, unstable housing can lead to incarceration and reincarceration because it compromises family stability and threatens employment prospects, and it is self-sustaining—the less stable an individual's housing situation, the harder it is for that individual to find better housing. Housing is a life area through which the "ripple effects" of incarceration on families and communities propagate.

Former prisoners employ various strategies in the search for better housing; among the focus group participants, the best indicators for success in this pursuit were supportive family and intensive case management.

### L.'s Story

L. lived with her daughter in Boston. They were poor but had a stable living situation; indeed, L. had never had problems with the law, and had been living in the same place for over twenty years. After becoming involved with drugs, L.'s daughter moved out and started living on the streets and at friends' houses. However, when L.'s daughter was arrested, she used her mother's address to identify herself. When L.'s landlord learned that someone who was ostensibly living in her apartment had committed a drug offense, L.'s life changed forever. "I ended up losing my housing that I had for twenty-something years...and that's when shit just hit the fan." After the eviction, L. couldn't find affordable housing in Boston and decided to move to the Southside of Providence; her daughter moved to join her when she was released from prison.

In the twelve years since then, L. could not find a stable housing situation, became involved with drugs herself and has been incarcerated at the ACI at least four times. Her daughter lives in Rhode Island, and they are still in contact, but their relationship has never fully healed. When L. was last released from prison in November of 2003, her daughter would not let her move in. She has been homeless since then, at times living illegally in friends' apartments and at times living in local homeless shelters.<sup>1</sup> L. is working full time, and has been for the past four months. Holding a job has not been easy, especially when she lives in a shelter. "I don't want to get up at five o'clock in the morning and hang around three hours before I go to work and then *maybe* get a chance of getting back [in time to get a bed] because I don't get out of work 'til seven or eight at night."

L.'s job gives her hope that she'll be able to find her own housing, but she is aware that the market provides few, if any, options for someone of her background and income level. "I work six days a week, and I work hard...but the thing is I can't afford to pay a security and a month's rent, and then once I *do* do that, and I get in, who's to say I'm going to be able, when [the landlord] raises the rent in six months...to afford it anyway?"

#### Prisoner Reentry in Rhode Island

1,200 Providence residents are released from prison each year

Over 3,500 individuals will be released from Rhode Island's prisons this year, including 1,200 who will return to Providence.<sup>2</sup> An estimated 1 in 10 will, like L., end up homeless;<sup>3</sup> others will stay with family or friends; and a few lucky ones will gain access to transitional housing or find a place they can rent. The recently released are not the only Rhode Islanders facing housing discrimination because of their criminal records; statewide, over 20,688 people live in the community on probation or parole.<sup>4</sup> In Providence, 6,846 individuals are on probation or parole, 1 in every 19 adults.<sup>5</sup> The rates are even higher in the four Providence Making Connections neighborhoods: 1 in 6 adult men in Elmwood and the West End, and 1 in 4 adult men in Upper and Lower South Providence are on probation or parole.<sup>6</sup> A still larger percentage of the population has a past criminal record. For all of these individuals, finding housing is especially arduous in a housing market that can legally discriminate against those with records.

<sup>1</sup> All "current" data on focus group participants was reported as of Dec., 2004 at two focus groups convened at the RI Family Life Center.

<sup>2</sup> Rhode Island Department of Corrections, *Prisoner Reentry in Rhode Island*, Presentation to the National Governor's Association (May 2004), p. 13. Accessed at: <http://www.doc.ri.gov/pdf/2004/RI-NGA%20presentation%2005-04.pdf>.

<sup>3</sup> Patrick A. Langan and David J. Levin, *Recidivism of Prisoners Released in 1994* (Washington, DC: US Department of Justice, Bureau of Justice Statistics, 2002). Cited in: *The Reentry Policy Council, Report of the Reentry Policy Council*, (New York: Council of State Governments, 2003), p. 257. Accessed at: [www.reentrypolicy.org/documents/rpc\\_report.pdf](http://www.reentrypolicy.org/documents/rpc_report.pdf).

<sup>4</sup> Rhode Island Department of Corrections, *Prisoner Reentry in Rhode Island*, p. 16.

<sup>5</sup> *Ibid.*, p. 20.

<sup>6</sup> Providence Plan, Analysis of Rhode Island Department of Corrections data files of sentenced and supervised offenders (September 30, 2003). Accessed at: [http://ri-familylifecenter.org/pagetool/media/maps/probation\\_map3.jpg](http://ri-familylifecenter.org/pagetool/media/maps/probation_map3.jpg)



### Focus Groups

In order to better understand the relationship between incarceration and housing at the individual and community level, the Rhode Island Family Life Center, in partnership with Making Connections Providence, convened two focus groups. Fifteen participants were formerly incarcerated and three were family members of currently or formerly incarcerated individuals; participants also must have had trouble, at some point, in securing housing. Before convening the focus groups, the research team understood that this population faces both practical discrimination and discrimination based on policies that have the stated goal of public safety (see Chapter Two). Thus the goal of our focus groups was not to establish that discrimination exists (although they certainly provided anecdotal support for this claim). Rather, our focus groups were meant to answer the following three questions:

1. What are some of the collateral consequences of housing discrimination against the formerly incarcerated for individuals, families and communities?
2. What strategies are individuals employing to find housing and how successful are they?
3. What are possible components of a housing program that might appeal to and work for formerly incarcerated individuals?

For more detailed information on focus group participants and their past experiences with housing and corrections, see Appendix A, which provides more context for the following analysis and information.

### Collateral Consequences of Unstable Housing and Incarceration

An unstable housing situation poses serious risks to an individual's ability to locate better housing, find employment, maintain sobriety, access social services and, ultimately, to avoid reincarceration. Families feel the impact as well; the incarceration of a loved one can mean reduced income, loss of housing, social stigma that make it hard to recover (in order, for instance, to find housing after an eviction) and negative psychological effects, especially for children. Further, depending on how a family can and does handle the release of a relative, the reentry process can pose a threat to family stability and unity.

Housing (in)stability  
impacts employment  
sobriety, recidivism,  
family and prospects  
for better housing

Any family will sometimes find itself in situations where the best interests of one family member seem to oppose the best interests of another, but for families attempting to negotiate the compounded problems of incarceration and housing instability, the consequences surrounding any resolution of such conflicts can be dire. In other words, the risks associated with a criminal record can reproduce themselves in the lives of loved ones who might never have had problems with the law, and new risks are created when the issues that ex-prisoners face intersect with the tensions that already exist for low-income families.

Risk factors  
interact, multiply  
and spread

Recall L.'s story; her family was poor, but they were getting along. There was stress, but L. knew how to manage it, and she had been doing so for twenty years. Her daughter's incarceration, however, was an overload; it was the catalyst that caused all her fragile threads to unravel, and the fabric of her life came apart. Now she faces the challenge of reconstructing her own life and, she hopes, that of the rest of her family.

#### **The Risks Associated with Unstable Housing at the Individual Level**

Unstable housing  
can ultimately be a  
factor in recidivism

Formerly incarcerated respondents discussed four risk factors in which their housing status played a role: persistent unemployment, the inability to find better housing, the lure of drug relapse and the possibility of reincarceration.

##### *Employment*

All focus group participants agreed that, except for individuals with disabilities that might prevent them from working, former prisoners should make employment a priority. One respondent remarked that "you could really end up back where you started from" if you do not find a job to keep you busy. Other participants strongly affirmed this statement. However, only three of the 15 formerly incarcerated respondents are currently employed. One of these three is homeless (L.), one is a market rate renter, and one is living with family.<sup>7</sup>

Of the remaining 12 formerly incarcerated individuals, two receive SSI benefits and one is in transitional programming that occupies part of the day; one of the two on SSI is homeless, and the other lives in section 8 housing. The respondent in transitional programming lives in a house associated with that program. The remaining nine, who are completely unemployed, consist of eight who are currently homeless (either living in a shelter or couch surfing), and one who is living in subsidized housing.<sup>8</sup> Nearly all of the unemployed respondents were in the most unstable living arrangements.

When asked about employment prospects, one homeless respondent replied, "[You have] no permanent address, no phone number where they can reach you at; I feel like it's hopeless...you have no transportation to the job...that's why I don't have a job right now." Again, other homeless respondents affirmed this statement. One respondent reported working with a case manager at a shelter to find employment, but like L., found it hard to balance a job with the restrictions of shelter life. "I worked with the person at the shelter place, but that was

<sup>7</sup> For the purposes of this report, "living with family" means that an individual lives with family but hopes to and/or is expected to be able to move out at some time. When an individual lives with family in a permanent manner, they are considered to have the same type of housing as their family (i.e., market rate rental or public housing).

<sup>8</sup> For the purposes of this document, "couch surfing" is defined as homeless, but predominantly sleeping at a string of friends' houses; couch surfers may also spend some time at shelters, but this is not their predominant housing strategy.

useless.... I wasn't guaranteed a bed so if I went to work, then it was either go to work and stay up all night to go to work the next day, or not go to work and go to the shelter...."

#### *Housing*

Participants also reported that housing instability makes it difficult to find improved living conditions. Respondents gave two reasons for this; first, given the difficulty of finding employment, it is difficult to make enough money to begin paying rent. Second, many respondents reported that to afford housing, it's often necessary to "double up", but they complained that because of transience, the pool of roommates available to them consists of people that they are "thrown together with" rather than individuals that they might pick on the basis of trust and rapport. Six respondents had experiences with roommates who robbed them and/or used the property they rented together as a place to do hard drugs. L. spoke of coming home on a few different occasions to find her living room (when she had one) filled with "people in there smoking crack." Similarly, one participant reported that he is currently being evicted because he was robbed of his rent money by other tenants in his building; he feels this would not have happened had he been in a more secure building—a building he can't afford.

#### *Drug Use and Recidivism*

In the context of all of this uncertainty, 12 of the 15 formerly incarcerated respondents felt at risk to recidivate and/or relapse into drug use, and, of these 12, all felt that their current housing situation contributed to this risk. One of the family members also reported that people in her family have committed crimes after coming out that she felt were linked to their housing situation.

Furthermore, many respondents reported that their housing situation before their most recent incarceration contributed to their crime and/or their drug habit. T., a young man from Providence, recalled:

I was homeless, and I ended up doing something stupid, and I ended up getting arrested but if I would have had a good place to stay...that probably wouldn't have happened. But I was on the streets and I was acting wild and stuff...I guess I was mad at the world and acting out, ended up getting locked up.

S., another participant, spoke about how his housing situation tempted him to start using drugs again.

When you're homeless...it's just so hard to stop [using].... You go from place to place and once your stuff runs out you're out the door.... It's much easier to just keep going—you don't have no bills, no responsibilities or nothing—until you get locked up or something happens.

The group strongly affirmed S.'s statement. L. commented, "I had no stable place to live...you gotta be out there trying to find a place to stay...and sometimes you do shit you don't wanna do."

While some respondents spoke of relapse as a consequence of despair or anger, others were candid about using criminal activity as a way to stabilize housing costs when they could not find work. "Some guys," said one respondent, "learn new crimes, so when they get out they do have a plan.... There's no job; they're not gonna get any money, so you gonna go and try to do the same thing you were doing before." The use of illegal activity as a strategy to make housing affordable will be considered again later.

An unstable housing situation can make it difficult for formerly incarcerated individuals to find work, and further, housing instability can be self-replicating, leading some to commit new crimes in the uphill battle for better housing. Further complicating this set of risk factors are the effects that incarcerated individuals can have on their families' stability.

#### **Family Situation of Focus Group Participants**

Before considering the ways in which the incarceration of one member can complicate the lives of everyone in an entire family, some details on the focus group participants' family situations should be noted. For these questions, non-incarcerated family members answered on behalf of the incarcerated. Twelve respondents had children at the time of their most recent incarceration; six respondents had adult children, and six (including the two that are currently incarcerated) have young children. For each of the currently incarcerated parents, the family member present (one mother/grandmother and one wife/mother) as a respondent was currently the guardian of their children.

Five of the six respondents with young children reported living with those children at the time of their most recent incarceration. Currently, only two formerly incarcerated respondents are living with their children, including one man who has been living with his adult daughter since his release. The two non-incarcerated respondents that are caring for the children of an incarcerated parent reported that they have not decided whether they will allow the children's parent to move in with them when they are released. Another respondent was pregnant; she was with her partner, and they were both homeless.

Five respondents were married and living with their spouse at the time of their most recent incarceration. Of the five, one is still incarcerated. One participant's spouse died during the respondent's incarceration. One is still with her spouse, but they are both homeless. One is renting a house with her spouse, and one is estranged from his spouse. Two respondents indicated having a serious partner with whom they lived on and off in the months preceding their most recent incarceration; one of these respondents is still incarcerated, and one is out of prison and no longer seeing the partner. Two respondents reported having an estranged spouse with whom they were not living before their most recent incarceration, and one respondent reported being divorced.

### The Effect of Incarceration and Reentry on Families' Housing

Many focus group respondents had the experience of both being affected by the incarceration of a loved one and having their incarceration affect the rest of their family. Nine respondents (including non-incarcerated individuals responding on behalf of their incarcerated family members) reported that they or their family were evicted as a direct result of incarceration, on one or more occasions. Two of these respondents cited occasions on which they were held for less than a month and had already paid the next month's rent but were still evicted.

Housing instability among the formerly incarcerated is a family issue

Four reported losing housing as an indirect effect of incarceration. Of the four, one respondent reported having a restraining order filed against him while in prison, rendering him unable to return home. One respondent lived with his father before being incarcerated, but his father died while he was in prison, and as a result, he was homeless when he was released. "When I got out," he recollected, "I got out to nowhere." One respondent defaulted on his mortgage payments while in jail in another state and when the bank foreclosed, his partner and children were evicted as well. One respondent reported that upon her incarceration, her family (partner and children) had to move because of income loss.

Also, eight respondents (including non-incarcerated family speaking on their own behalf) reported losing their housing on one or more occasions as a result of another family member's incarceration. Five reported that a suspicious landlord evicted them. Two had to move because of income loss pursuant to a partner's incarceration, and one had to move in with relatives in another state because he was a minor at the time, and his only parent was incarcerated.

While the prevalence of family housing loss pursuant to the incarceration of one family member is striking, it is also important to note that families that lose housing become candidates for the same risky behaviors and situations that might have led to their loved one's incarceration. L., for example, was one of five formerly incarcerated respondents who at some point lost housing because of a family member's incarceration and cited the loss of housing as a factor in their own troubles with the law. T. recalled such a turning point in his life:

Relatives of the incarcerated who lose housing inherit the risk factors that lead to incarceration

In 1985, my father went to jail, and I went to Connecticut and stayed with my second family, which kind of, like, messed my mind up a little bit cause I missed him. I was fifteen, sixteen, and got involved with a lot of drug dealing, and at home I was a free bird, did whatever I wanted... To this day, I have flashbacks to all that.

Just as some offenders move from housing that enables a criminal lifestyle into a prison and back into risky housing, their family members must sometimes secure new housing when their loved ones are incarcerated only to be forced to reconsider that housing situation when family members are released. Like the many respondents mentioned above who had to move because of a family member's incarceration, N. reported:

[my spouse's incarceration] affected me because it cut my income in half. I had to move; I got behind in rent; I got behind in bills; I got behind in everything.... I had to take my children and go into a shelter.

Deciding if and how to shelter a loved one returning from prison is complex and difficult

N. has secure housing now, but as her spouse's release approaches and it becomes clear to her that he has few prospects for housing or employment, she faces some difficult questions: will it be healthy for her and her children if he moves in; if not, where will he go; will her landlord even allow him to move in; if not, will their combined income be sufficient to support a move? The other respondent with a currently incarcerated family member reported that she has sheltered family members after their release from prison in the past, and now she faces the same questions about her daughter's return home. She said that sheltering family in the past made her feel as though she was putting herself at risk.

#### *Community Safety, Incarceration and Families*

Risk factors spread by way of housing instability; thus, incarceration has a community impact

Each of the two major events in one period of incarceration—imprisonment itself and reentry—has the potential to jeopardize (or, in some cases, *further* jeopardize) the stability of housing for the sentenced individual and for their family. Each moment in which housing is jeopardized presents desperate circumstances in which individuals can lose employment and/or turn to illegal activities. Housing, then, is one of the life areas through which the "ripple effects" of incarceration can travel, destabilizing families and the communities in which they reside. In communities that feel the effects of incarceration most strongly, such as the Southside of Providence, plans for community safety need to incorporate initiatives that stabilize housing for former prisoners and their families.

### Strategies in the Search for Housing for the Formerly Incarcerated

In the absence of an integrated system to provide secure and stable housing, former prisoners search for housing and fight to keep housing by employing a variety of strategies that draw from a limited palette of resources and opportunities. After talking about whether or not they had a plan to find housing when they came out of prison, respondents discussed the relative merits of four strategies: searching the housing market through traditional means, illegal strategies, family-based strategies and institution-based strategies.

#### *Plans (or Lack Thereof) for Housing Post-Release*

Nine focus group respondents reported that they had absolutely no post-release plan to find housing, and nine people reported that they did have a plan. Of the individuals with no plan, seven ended up homeless after their release; one lived with family, and one became a market rate renter, moving back in with family in a permanent manner. The nine who did have a plan included the two currently incarcerated individuals, who were planning to move in with their family members who were present as respondents.

The nine respondents who had a plan were asked to explain what that plan was. Five planned to live with family; two were successful. The two still-incarcerated individuals who plan to live with family do not know yet whether they will be successful in their plan, as their present family members are, again, not yet sure whether it will be healthy for them and the children to allow them to move in. One individual planning to live with family became homeless.

One individual came out planning to live with friends briefly and mount an intensive search for rental property (market-rate or subsidized), but ended up couch surfing for an extended period of time and is still homeless. Two respondents planned to head back to the shelter and were successful in this, and one planned to be in transitional housing and was successful in this.

#### *Strategy 1: Traditional*

All respondents reported that at some point they attempted to employ traditional means of finding housing in the rental market: checking newspapers and other listings, pounding pavement and making phone calls. For most respondents, finding good rental housing was their first choice, but because of their criminal records and their income levels, they considered it a long shot. For information on discrimination that respondents experienced in the rental housing market and the prohibitive pricing of "affordable" housing see Chapter Two. Despite being discouraged about their prospects in the rental housing market, respondents felt strongly that there is variation among landlords, and some are more willing than others to be understanding. One woman, the only formerly incarcerated respondent in the first focus group whose housing stability recently improved,

found a landlord "who was willing to take a chance."<sup>9</sup> "I let them know my whole situation and, y'know, sometimes it works." She feels, however, that the rent is barely affordable given her income, her partner's income, and the need to provide for their children.

#### *Strategy 2: Illegal*

As mentioned earlier, individuals living in unsteady housing sometimes commit crimes with the goal of attaining better housing or stabilizing their current situation. Respondents formulated this goal in two ways: getting extra income to supplement rent or other needs and committing crimes in the hope of being sent back to prison, but all respondents regretted having to think and act this way.

"When you're paying 900 dollars and you're getting 600 in, you gotta find a way to supplement that...so you do what comes natural.... I'm not...saying it's right...." Later the same respondent spoke about times that he has considered trying to be sentenced to the ACI. "Bottom line is, you send me up there, I got a stable place to live. It ain't the place I want to be, but bottom line is this; it's warm and I'll get three squares a day." Again, 12 of the 15 formerly incarcerated respondents reported that their current housing situation made them feel at risk to recidivate and/or relapse into drug use. Participants were not polled directly on whether the crimes being considered constituted part of a strategy to achieve more stable housing. However, five respondents made statements to this effect, and they were met with general agreement. Strategic reincarceration is, in part, an unintended consequence of Rhode Island's current public housing policy and the lack of affordable, transitional and supportive housing. (See Chapter Two for more discussion on the ACI as a form of public housing and the associated cost.)

#### *Strategy 3: Family*

Family,  
the most  
common  
strategy

In a housing market that can and will legally discriminate against individuals with criminal records, many must either stay with family or become homeless. Recall that, including couch surfers, the majority of respondents (11) were homeless after their most recent release, and three lived with family whereas only one lived in transitional housing and only one became a renter. As one respondent commented, "Without willing relatives, unfortunately, there's not a plan."

Again, among the nine respondents who had a plan, living with family, temporarily or permanently, was the most common strategy, but only two were successful; because of risks associated with taking in a formerly incarcerated loved one, families can be hesitant to help.

<sup>9</sup> For a view of various "housing trajectories," see Appendix A, fig. A-1. However, the woman described here is not represented in this figure, which only describes formerly incarcerated respondents from the second focus group.



However, despite the low success rate of respondents seeking housing with family, respondents agreed that families that *do* have the means and inclination to help, as well as the ability to absorb and/or offset the risks, can be major stabilizing forces in their loved ones' housing situations. Further, this support does not always have to take the form of direct provision of housing. D. is in stable transitional housing, but she reported that family support has helped her to obtain and maintain this living situation.<sup>10</sup> E., who lives with his adult daughter, hopes one day to be able to move out but reports that he knows he can live with her as long as he needs, and because of his daughter, he has been able to hold a job and feels no risk to recidivate.<sup>11</sup> Family-based strategies for housing stabilization among the formerly incarcerated present and sustain many of the same risks that lead to crime, but a family able to provide support without excessively burdening itself can play an important role in stabilizing all aspects of an ex-offender's life, including housing.

Those supported  
by family were  
more successful

#### *Strategy 4: Institution-based*

There are three institutional structures with a perceived direct interest in stable housing for the formerly incarcerated: discharge planning at the ACL, probation and parole, and formalized transitional housing units. According to respondents, discharge planning suffers from limited access, and for those who do receive planning, the plan is rarely effective. One respondent recalled:

Before I went in...I was living at the \_\_\_\_ Hotel, which is eighty dollars a week, when I got out, I figured...it'll be a little bit more; it was a hundred and forty-five dollars a week. I had no idea, the six and a half years I was in, that things went up that much.

What is striking about his story is that if just one person had asked him about his plan, his misconceptions about changes in the housing market could have been corrected, providing him with at least an opportunity to think of a better plan. That respondent is now living in a shelter. Another participant reported, "they never worked with me on the discharge plan...I never knew what a discharge plan was.... I didn't know what the hell I was gonna do," and many respondents echoed this sentiment.

Only three respondents reported working with discharge planners, and only one found stable housing while the other two are homeless. D., who is now in transitional housing said:

I was very persistent so I got what I wanted.... I constantly was on my counselor...because I was worried about where I was gonna lay my head at; it's cold out there.... If I wasn't persistent.... I probably would be elsewhere.

Only one respondent  
received in-depth  
case management  
coordinated with  
supportive services

<sup>10</sup> The full housing trajectory of D. is represented in Appendix A, fig. A-1.

<sup>11</sup> The full housing trajectory of E. is represented in Appendix A, fig. A-1.

While D.'s persistence in working with her discharge planner should not be underestimated, it is important to note that there are more discharge services and transitional housing for female prisoners than for male prisoners.<sup>12</sup>

For instance, T. insistently sought the attention of his discharge planner, but he is still homeless. He reported:

Last year, before I was released I signed up for discharge planning.... I spoke to them about what I would like to do upon release.... Got me involved with\_\_\_\_, got hooked up with SSI went through all the applications I had to go through.... I'm still here now trying to get an apartment.... If I didn't have no family I could have been freezing; I would have froze to death by now or starved to death.

Another respondent who worked with a discharge planner felt that institutional barriers completely undermined the effectiveness of the plans he had built. He recalled, "I always get discharge planning, and one time they left me flatfooted. They were supposed to send me to a program...and I didn't have no ticket to get there. I couldn't get in touch with anybody to make plans...." Individualized discharge planning is only reaching mentally ill, high risk and medically compromised male prisoners; the rest receive discharge planning in a group setting.<sup>13</sup>

If the goal of probation and parole is to facilitate smooth reentry for prisoners who are deemed ready to participate in society again, probation and parole officers should have a serious interest in the relative stability of their supervisees' living situations. Focus group respondents included seven probationers and three parolees. When asked if their parole or probation officer has taken a role in finding them housing, most laughed; none responded in the affirmative. One respondent, however, reported that a probation officer had threatened him with a violation if he did not find stable housing.

Finally, respondents were enthusiastic about the idea of transitional housing, but their discussion of it reflected its limited availability. (Chapter Two discusses the general lack of transitional housing in Rhode Island; see also Appendix C.) Only one respondent had had experience with transitional housing, but she was currently in transitional housing and thus, could not discuss with much perspective its relative effectiveness in stabilizing her. While all respondents were familiar with the term "transitional housing," many did not know that it was available at all in Rhode Island. When one respondent in the second focus group commented that the state should build transitional housing, everyone agreed enthusiastically.

<sup>12</sup> Personal Correspondence with Teresa Foley (Professional Services Coordinator, Rhode Island Department of Corrections), May 4, 2005.

<sup>13</sup> Ibid.

#### Possible Components of a Housing Program for the Formerly Incarcerated

In the absence of a widely accessible institutional response to their housing challenges, most ex-prisoners either face a discriminatory and expensive private housing market or pursue informal remedies that may be either illegal, burdensome to family, or both. All formerly incarcerated participants but one said they'd be willing to work with a case manager; T., the lone dissenter, felt that he had too many case managers already and none of them were able to help him. All respondents said they would be willing to participate in tenancy classes or trainings if doing so would increase their chances of finding stable housing, and all said they'd be willing to make repairs to their rental unit. The prospect of being actively "involved" in a housing situation was exciting for many of the respondents.

All respondents reported that whenever living with friends or family in a temporary situation, they made it a point to help in some way, most commonly with rent or food. At the same time, seven respondents in the second group reported having learned while growing up how to take care of an apartment, but only one of them, a chronically homeless individual, reported specifically being taught how to budget. A successful housing program must acknowledge and work with the life skills and enthusiasm that participants already have.

Respondents  
wanted to feel  
responsible for, and  
contribute to, their  
housing situations

Finally, since the best indicators for stable housing were healthy, supportive family reunification and intensive case management, such a program (which would first need funding and housing resources) should incorporate these strategies. Case management should be responsible for all the life areas that affect and are affected by housing, the three most vital of which seem to be family itself, employment and the search for housing. Such a program should be able to reach individuals before they have to spend even one night in a shelter, and, when the program utilizes supportive housing, it should be permanent for those who need it to be. For extensive recommendations, see Chapter Three.

Healthy family  
reunification must be  
fostered, case  
management made  
available

### Conclusion

The less stable a housing situation, the harder it is to find better housing

The focus groups anecdotally illustrated some of the causes and consequences of incarceration-related housing instability. The main causes that they discussed were discrimination based on criminal records and economic issues due to the difficulty that ex-prisoners have in finding employment. (For more information on discriminatory policies and practice in housing, see Chapter Two.) They also described the ways in which housing instability is self-sustaining, existing in a regressive relationship to itself; the less stable a housing situation, the harder it is to find better housing.

A self-perpetuating cycle: the consequences of unstable housing are also its causes

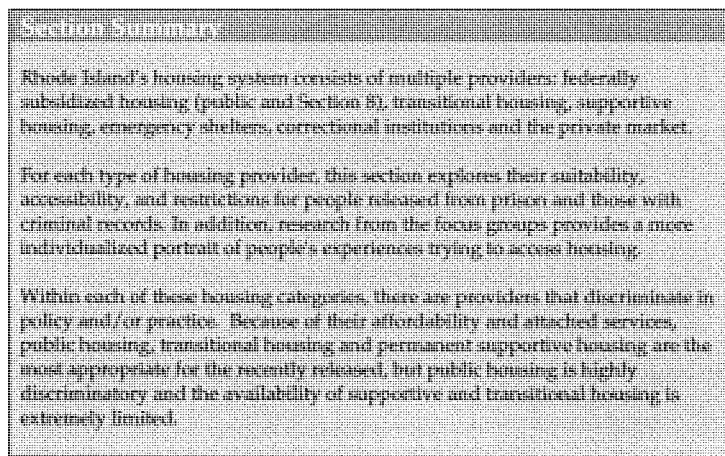
Unstable housing and its consequences exist in a cyclical relationship: the consequences make the search for stable housing all the more difficult. Formerly incarcerated individuals with unstable housing have trouble finding employment and better housing, and they run a high risk of recidivism, relapse and reincarceration. Their families feel the impact as well, both at the time of their family member's incarceration and at reentry. The housing of families can be destabilized when a loved one goes to prison because of lost income, discrimination and social stigma. At reentry, families face difficult questions about whether they can house their loved ones and then, whether they should. Ultimately, families can inherit many of the risks associated with the housing situation of their loved ones.

In order to negotiate the housing-related challenges that face them, individuals with criminal records struggle to find housing, using legal and illegal means. Among focus groups participants, the best indicators for housing success were a supportive family and access to an attentive counselor of some kind. However, families must have both the inclination and the means to provide effective support, and many prisoners never receive case management, or their case managers cannot offer sufficient aid.

In high incarceration neighborhoods, like South Providence, the complex interactions between incarceration, safety, housing, employment, poverty and family unity impact the social fabric of the entire community. The revitalization of these communities depends in part on the development of sustainable, community-based responses to the problem. Any comprehensive plan to respond to Rhode Island's housing crisis (see Chapter Three) must specifically address the needs of the formerly incarcerated.

## 2

## No Open Doors: Housing Discrimination Against People with Criminal Records



### Introduction

Incarceration and reentry complicate and compromise the present and future housing options of individuals and families. The deep interplay between housing markets, family stability, incarceration and the lack of housing options can lead to increased social instability and significant public safety risks and costs (See Chapter One). This chapter focuses on legal forms of discrimination, established both in policy and practice, that negatively affect the housing options of people released from prison, people with criminal records and their families.

### Federal Restrictions on Public Housing

"Exclusionary housing policies constitute one of the most significant barriers to reentry. People leaving prison and jail are typically among Americans with the most dire housing needs. For them, publicly supported housing is the only realistic option for safe and stable places to live. Excluded from public housing, they often end up swelling the ranks of the homeless, becoming inhabitants of grimy and unsafe transient hotels and motels, or crowd into the homes of relatives or friends. None of these options is conducive to the development of stable, productive lives for former prisoners or their children."

- Human Rights Watch, *No Second Chance* (New York: 2004)

In 1996, under the Clinton Administration, the federal government instituted a host of new restrictions for people with criminal records trying to access subsidized housing.

Commonly known as "One-Strike and You're Out", the rule established a set of mandatory as well as discretionary restrictions designed to bolster the safety of public housing. The statute's logic is two-fold: to increase the safety of housing units by discriminating against individuals with substance abuse and/or criminal histories; and, to reserve federally subsidized housing for "deserving and responsible" individuals.<sup>1</sup>

HUD guidelines state that public housing is no longer intended to provide housing to all or even serve as a safety net for those facing the greatest barriers to housing in the private market:

The nation's housing  
crisis intersecting  
with the moral  
stigma of criminal  
records

Because of the extraordinary demand for affordable rental housing, public and assisted housing should be awarded to responsible individuals. ... At a time when the shrinking supply of affordable housing is not keeping pace with the number of Americans who need it, it is reasonable to allocate scarce resources to those who play by the rules. ... By refusing to evict or screen out problem tenants, we are unjustly denying responsible and deserving low-income families access to housing and are jeopardizing the community and safety of existing residents who abide by the terms of their lease.<sup>2</sup>

The principle of making individuals with criminal records less eligible for subsidized housing is embodied in HUD's mandatory and discretionary restrictions.

<sup>1</sup> Federal Register. Vol. 66 No. 101. May 24, 2001, "Rules and Regulations."

<sup>2</sup> HUD, Office of Public and Indian Housing, "One Strike and You're Out' Policy in Public Housing" (March 1996), contained in HUD Directive No. 96-16 (April 12, 1996), *Guiding Principles of a One Strike Policy*, Section I(b). Quoted in: *No Second Chance*, p. 20.

*Mandatory Restrictions*

Federal housing law requires Public Housing Authorities or other providers of federally subsidized housing to deny housing when any member of the applicant household:

1. Has been evicted from federally subsidized housing for drug related criminal activity in the last three (3) years. This restriction may be shortened if the member has undergone supervised drug treatment or the circumstances leading to the eviction no longer exist.
2. Was ever convicted of manufacturing methamphetamine on the premises of federally assisted housing.
3. Is subject to lifetime registration as a sex offender.
4. Is currently using drugs or if their pattern of drug use may threaten the health, safety, or right to peaceful enjoyment of other residents.
5. Is currently abusing alcohol or has a pattern of abuse that may threaten the health, safety, or peaceful enjoyment of the other residents.<sup>3</sup>

*Discretionary Restrictions*

In addition to the mandatory guidelines, the current federal housing laws *permit* housing authorities to deny admission, for public housing or Section 8, based on current or recent engagement in illegal activities; drug, violent or any other type of criminal offense is a basis for disqualification. In these cases, the housing authority may establish the period of time within which it will consider and review criminal histories of applicants. Further, housing authorities may force tenants of public housing to release their drug treatment history.

In reviewing applicants' criminal histories for Section 8 or other federally assisted housing, an applicant may be eligible if there is sufficient evidence that the person has not engaged in criminal activity for a reasonable length of time or someone can vouch for their desistance from crime.

When deciding when to deny admission or terminate tenancy, Section 8 owners may consider seriousness of offense, effect on community, leaseholder participation, effect on other families in line, leaseholder intervention, and the effect on other owners in the program; in public housing, the leaseholder's past financial performance, criminal and/or complaint record, and the seriousness/context of offense may be considered. Furthermore, for both Section 8 and public housing, local housing authorities may consider seriousness, extent of participation by family member, circumstances related to disability, and the effect on the family.

<sup>3</sup> National Leased Housing Association, *Screening and Eviction Rule*. Accessed at: [www.nmauniversity.com/nanmckay\\_corp/nlha.pdf](http://www.nmauniversity.com/nanmckay_corp/nlha.pdf).

Clearly, the new federal guidelines established a stricter set of eligibility requirements designed to improve the safety and quality of life within federally assisted housing. This was to be accomplished by excluding those dealing with addiction to drugs and alcohol and those involved with the criminal justice system. Nationwide, in 1997, an estimated 43 percent of all rejections were due to the "One Strike" policy outlined above.<sup>4</sup> Because of the breadth of discretionary restrictions for housing authorities to follow, the impact of these policies on applicants with criminal records varies greatly across municipalities.

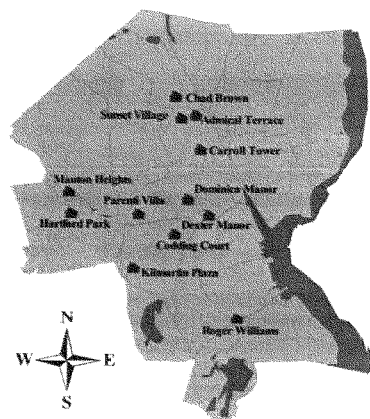
### Providence Housing Authority

The Providence Housing Authority (PHA) is the largest single provider of housing for low-income residents and families in the city. Approximately 1,400 family units provide housing for over 4,500 individuals in six developments and 236 scattered site houses. Another 1,000 units in seven developments provide

housing to 1,200 elderly and disabled individuals.<sup>5</sup> Two family developments and one elderly/disabled development are located in the Making Connections neighborhoods. In addition, the PHA administers over 2,100 Housing Choice Vouchers (commonly referred to as Section 8 vouchers).<sup>6</sup>

Given high demand, the availability of these public housing units and Section 8 vouchers is scarce; applicants may wait several years to become eligible. Because the eligibility information of individuals on the waiting lists must be updated every six months, a costly proposition, the PHA maintains two waiting lists for those desiring public housing or Section 8 vouchers: a pre-application waiting list and a regular waiting list for which eligibility must be maintained. As of June 2004, there were 3,565 families on the pre-application waiting list for housing projects.<sup>7</sup> As of October 2003, the Section 8 waiting list, which is currently closed to new applicants, had 2,247 families—1,788 pre-applicant families and 459 families on the regular list.<sup>8</sup>

**Figure 2-1; Providence Public Housing Developments**  
Six family and seven elderly developments; excluding scattered site houses.



Accessed at: [www.pha-providence.com/public.html](http://www.pha-providence.com/public.html)

<sup>4</sup> The Reentry Policy Council, *Report of the Reentry Policy Council*, (New York: Council of State Governments, 2003), p. 258. Accessed at: [www.reentrypolicy.org/documents/rpc\\_report.pdf](http://www.reentrypolicy.org/documents/rpc_report.pdf).

<sup>5</sup> Providence Housing Authority. "Resident Population by Development, June 2003." Accessed at: [www.pha-providence.com/public.html](http://www.pha-providence.com/public.html).

<sup>6</sup> Providence Housing Authority. "Housing Choice Voucher Program." Accessed at: [www.pha-providence.com/voucher.html](http://www.pha-providence.com/voucher.html).

<sup>7</sup> Providence Housing Authority, *Annual Report, FY2004*, p. 130. Accessed at: <http://www.pha-providence.com/reports.html>.

<sup>8</sup> Providence Housing Authority, as reported to Providence Plan, October, 2003.



According to Stephen O'Rourke, Executive Director of the PHA, Providence already restricted applicants with criminal histories before the federal changes were applied in 1996. In fact, Providence was featured in the nationally distributed HUD video introducing the "One Strike and You're Out" policy.<sup>9</sup> In essence, the PHA's policies not only apply the mandatory restrictions but also utilize the discretionary discrimination permitted by HUD to bar most applicants with a felony conviction.<sup>10</sup>

PHA has led in the use of discretionary restrictions to deny applicants with felony convictions

In policy and practice, the PHA denies admission to public housing to applicants that have a history of criminal activity by any household member. During fiscal year 2004, 52 percent (84) of denials were due to a criminal record; 42% were for poor rental references. Director O'Rourke described that it is common practice to deny all applicants with criminal records within the past ten years and inform them of their right to appeal. Upon denial, applicants first go through an informal appeal to explain their situation; last year, only 8 percent (9) of informal appeals resulted in a reversal of ineligibility. After informal review, applicants can proceed to the formal appeal with representation by Rhode Island Legal Services or private attorney. According to PHA statistics, 11 formal hearings were held last year, and only one resulted in a reversal.<sup>11</sup> While PHA may encourage applicants denied due to felony convictions to appeal, the statistics indicate that PHA is unlikely to provide housing to individuals with criminal records, even if they go through the appeals process.

One reason for applicants' low success at winning on appeal is the PHA's policy regarding final determination of admission:

Subject to the PHA's consideration of any mitigating circumstance, no member of the applicant family 18 years of age or older should be **currently involved in criminal activity, have charges pending, or be convicted of a felony** for a recommendation of admission. The PHA considers any criminal activity during the past 10 years.<sup>12</sup>

The PHA considers any criminal history during the past 10 years in determining admission

In policy, Providence's exclusion extends beyond the finding of a felony conviction to the innocent who have yet to be convicted, but are facing criminal charges.

The exclusion can also extend to families of justice-involved individuals for whom family (re)unification is a high priority. People released from prison and returning to live with families in public housing can jeopardize the tenancy of their entire family. This can result from the returning family member not being on the lease, but also due to the screening requirements outlined above. However, the PHA will consider adding a family member returning from incarceration to an existing lease if they come forward and ask to be put on the

<sup>9</sup> Providence Housing Authority, *Annual Report* p. 79.

<sup>10</sup> Interview with Stephen O'Rourke (Executive Director, PHA), December 15, 2004.

<sup>11</sup> Providence Housing Authority, *Annual Report* p. 132.

<sup>12</sup> Providence Housing Authority, *Department of Housing Management Administrative Plan*, [Section 8.2.2 Final Determination, Criminal Activity]. Emphasis added.

Families already in  
PHA may house  
returning relatives,  
but new applicants  
are denied

lease and someone can attest to their character. If they are not upfront in their disclosure or the individual is determined likely to threaten the residential stability of the development, the family is asked not to allow the individual to continue residing in the unit. Director O'Rourke stated that families usually prefer to evict the individual than to try to find housing in the private market for the entire family.

The current policy and philosophy of the PHA does present an opportunity to develop a family reunification program for those living in public housing with family members released from prison and returning home.

Seven focus group participants reported experience with public housing. Two had positive experiences with Section 8 vouchers. Two other participants compared the public housing developments to prisons and noted that they were too strict; all participants complained about the restrictions both in terms of eligibility for public housing and the rules and surveillance once admitted. The focus groups were also in consensus that there is not enough public housing and waiting lists are so long or closed (in the case of Section 8) that they did not consider public housing as an option.

On the other hand, one participant in particular felt that public housing developments were not strict enough in their screening and contained a high concentration of illegal drug users and other criminals who were not taking responsibility for changing their lifestyles. Because of this perceived environment, she avoided public housing because she felt it would be hard to maintain her sobriety and commitment to a new lifestyle. Whether or not Providence's housing developments contain concentrations of illegal drug users is unclear. Over the past ten years, statistics from PHA's annual report show varying numbers of drug related evictions. While 14 percent (11) of evictions were drug related in 2003, there were no drug related evictions in fiscal year 2004.<sup>13</sup> Without further study, it cannot be determined whether this decline is due to reduced drug activity or reduced enforcement.

Nationwide, 75% of  
households eligible  
for subsidized  
housing receive no  
support or subsidy

Since funding of federal housing assistance has failed to keep pace with increasing demand, an estimated three-fourths of eligible households nationwide do not receive any housing subsidy or support.<sup>14</sup> Public and Section 8 housing no longer have the resources or capacity to be the community's safety net when the private market is unaffordable or unwilling to risk renting to individuals with criminal records or a history of substance abuse.

<sup>13</sup> Providence Housing Authority. *Annual Report*, p. 138.

<sup>14</sup> Joint Center for Housing Studies, *The State of the Nation's Housing: 2003* (Cambridge: Joint Center for Housing Studies, 2003). Cited in: *Report of the Reentry Policy Council*, p. 280.

### Transitional & Permanent Supportive Housing

Transitional and permanent supportive housing are the two types of housing most utilized in model housing programs for people released from prison and those with criminal records. "Transitional" in this context refers to the transition from homelessness to stable housing, not the transition from prison to stable housing; in fact, no transitional housing in Providence is specifically earmarked for recently released prisoners. "Supportive" housing is usually for individuals with disabilities and/or drug problems, who, in many cases, have experienced chronic homelessness. Both types of housing provide a level of supportive services to help people maintain sobriety, learn life skills, connect to social services, maintain mental and other health care and sustain residential stability in general.

Unfortunately, Rhode Island is particularly lacking in its capacity to provide transitional and permanent supportive housing. The Providence 2000-2005 HUD Consolidated Report reported that an additional 176 beds for individuals and 307 units for families with children were needed to meet the current need for transitional housing. The estimated gap in permanent supportive housing is even greater: 1080 beds for individuals, and 707 units for families with children.<sup>15</sup> With the affordable housing market declining and the number of people released from incarceration rising in the five years since these estimates were calculated, the need is undoubtedly much higher.

Providence severely  
needs more  
transitional and  
permanent  
supportive housing

The transitional housing system in Providence is especially ill-equipped to receive the estimated 1,200 people released from state prisons each year. An estimated 15 to 27 percent, or 180 to 324 people returning to Providence, will be in need of transitional housing in order to avoid homelessness.<sup>16</sup> According to a survey conducted of transitional housing providers, Providence only has about 379 beds of transitional housing.<sup>17</sup> Of these, only 141 are not earmarked for specific populations (AIDS patients, veterans, domestic violence victims, etc.) or do not discriminate against individuals recently released from incarceration. And of these 141, 67 beds are for parents living with their children, rarely the case for recently released prisoners. This leaves only 74 beds of transitional housing that do not discriminate against single, recently released individuals. Although these

Only 74 transitional  
beds are reasonably  
accessible to  
recently released  
single individuals

<sup>15</sup> City of Providence. *Consolidated Plan 2000-2005*, June 2000. (See Table 1A, Homeless and Special Needs Population.) Accessed at: [http://www.providenceri.com/government/public\\_notices/consolidated-plan-2000\\_2005.pdf](http://www.providenceri.com/government/public_notices/consolidated-plan-2000_2005.pdf). The counting methodology used in the *Consolidated Plan* is different than that used by the research team. As a result, the gap estimates from the *Consolidated Plan* should not be added to the capacity estimates given here to establish the projected total needs for transitional and supportive housing. See Appendix C for methodology and determination of reasonable accessibility to individuals with a criminal record.

As of the release of this report the *Consolidated Plan 2005-2010* was available, but in draft form only.

<sup>16</sup> This estimated percentage of returning prisoners returning to emergency shelters upon release is a finding that was presented as part of the Second Chance Act of 2004. Cited in: *No Second Chance*, p. 17.

<sup>17</sup> See Appendix C for the detailed results of this survey.

beds are not discriminatory, they are not earmarked for recently released prisoners either; further, turnover in all transition housing programs is extremely slow because of the overall gap.

Restrictions placed on McKinney-Vento funds (also known as Continuum of Care funding), which fund many supportive and transitional housing programs, may make accepting people released from incarceration more problematic. These funds, intended for use only with homeless populations, include a definition of homelessness that excludes individuals soon to be released from incarceration.<sup>18</sup> According to the Report of the Reentry Policy Council, some programs have worked around this restriction by referring people to emergency shelters prior to accepting them into transitional housing.<sup>19</sup> Doing so, however, may put the recently released individual at greater risk of recidivism.

Just 74 supportive housing beds do not discriminate against individuals recently released from prison

Supportive housing is equally under-resourced with only 450 beds in Providence.<sup>20</sup> Of these, only 74 are not either earmarked for specific populations or do not discriminate against individuals recently released from incarceration. Of those 74 beds, 34 are specifically earmarked for recently released prisoners, but will probably lose that distinction soon. These beds, in a development on Mawney Street in Elmwood, are part of Rhode Island's federally funded COMPASS reentry program. Under the grant, Amos House leased the building to provide permanent supportive housing for recently released offenders who were to be case managed by the Family Life Center. Due to the number of released offenders who met the eligibility criteria, but could not afford the rent without a subsidy, the program was also opened up to people with criminal records who may have been released several years earlier.<sup>21</sup> Unfortunately, the grant did not fund case management for these residents, and as a result the property has not been a consistently stable housing site.<sup>22</sup> It is unclear what will happen to the Mawney Street housing development when COMPASS funding expires on June 30, 2005.

<sup>18</sup> 42 U.S.C. § 11302(c) The statute states that the reference "homeless individual" does not include any individual imprisoned or otherwise detained pursuant to an Act of Congress or a state law." Accessed at: <http://www.nationalhomeless.org/who.html>.

<sup>19</sup> *Report of the Reentry Policy Council*, pp. 277-9.

<sup>20</sup> See Appendix C.

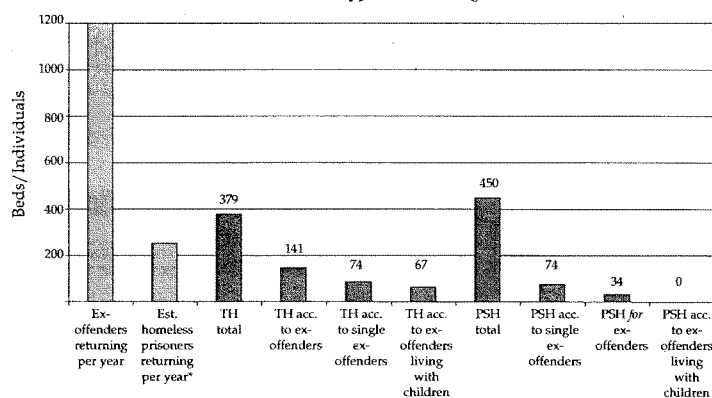
<sup>21</sup> To be eligible for the COMPASS program, participants must be returning to zip code 02905, 02907, 02908 or 02909. Participants must also be less than 35 years old and have been "released from a period of sentenced incarceration for either a violent, sex, breaking and entering, or a drug offense." For COMPASS purposes, "drug offenses" do not include simple possession. Rhode Island Department of Corrections, "The COMPASS Project: Challenging Offenders to Maintain Positive Associations and Social Stability," Description of Rhode Island's Serious and Violent Offender Reentry Initiative—a program of the U.S. Department of Justice, Office of Justice Programs, p. 16. Accessed at: [http://www.ojp.usdoj.gov/reentry/sar/pdf/wp1\\_ri.pdf](http://www.ojp.usdoj.gov/reentry/sar/pdf/wp1_ri.pdf).

<sup>22</sup> Interview with Eileen Hayes (Executive Director, Amos House), May 5, 2005. Hayes mentioned that there has been a significant drug problem in the Mawney Street complex.

The number of Providence residents on probation or parole, a subset of those with criminal records, is an estimated 6,846, or 1 in 19 adults.<sup>23</sup> Given the discrimination these people will face in accessing housing within the private housing rental market or from public housing due to their active supervision for a past criminal conviction, a significant percentage is in need of permanent supportive housing to address their disproportionately high incidence of substance abuse and mental illness, and there simply is not enough available.

Notably, there are zero permanent supportive housing beds for parents living with children that are reasonably accessible to individuals recently released from incarceration. There are, however, 61 beds of transitional housing for parents with children reasonably accessible to this population. Experience and anecdotes from focus group participants indicate that individuals returning from prison are more likely to be ready for family reunification at a time when they would be attempting to access permanent supportive housing, *not* transitional housing. The dearth of permanent supportive housing for individuals with criminal records desiring to live with their families must be addressed.

**Figure 2-2; Providence Supply of Transitional Housing (TH) and Permanent Supportive Housing (PSH)**



\*Based on an average of the range described on p. 27. See note 16.

<sup>23</sup> Rhode Island Department of Corrections, *Prisoner Reentry in Rhode Island*, Presentation to the National Governor's Association (May 2004), p. 18. Accessed at: <http://www.doc.ri.gov/pdf/2004/RI-NGA%20presentation%2005-04.pdf>.

Focus group participants had few experiences accessing either transitional or supportive housing programs. They did, however, express concern that certain supportive housing developments discriminated against people with felony records:

Even Crossroads now, with the apartments they have...they do a BCI on you. If you got a felony you can't go in there, and what is the purpose of that program? That's what it's supposed to be all about. Isn't that what that program was put together to help?

Another respondent added, "So what's gonna happen to all these people with felonies that have disabilities? What'll happen to them?"

Case management  
must be integrated  
into supportive  
housing

One focus group member who toured the project on Mawney Street was concerned about it becoming a template for ex-offender housing. Being an employed person with a criminal record, he was in need of supportive permanent housing and felt that the building was not set up to facilitate the kind of support he needed. Echoing this sentiment, Eileen Hayes, executive director of Amos House commented on the failure to provide case management to all Mawney Street residents. "The supportive services along with the monitoring services are key.... [Residents] must understand that they are connected to a program."<sup>24</sup>

### Emergency Shelters

Demand for housing in Providence has outpaced supply, causing prices to increase and low-income families to be displaced into homelessness. In FY2004, Rhode Island emergency shelters housed an all-time high of 6,020 people, a 36% increase from three years earlier; 2,535 of these individuals came from Providence.<sup>25</sup> Based on shelter surveys, 3.6 percent of individuals came directly from prison to the shelter.<sup>26</sup> Additionally, 14.9 percent of individuals accessing a shelter had experienced incarceration within the previous six months, likely representing the number of people who often cycle between shelters, rooming with friends temporarily, and the prison system.<sup>27</sup>

For those not affected by domestic violence, there are four emergency shelters available in or near Providence: Advent House and the three shelters administered by the Urban League (the Urban League Shelter, Welcome Arnold and Harrington Hall, the overflow shelter in Cranston, which is only funded during the winter). The total capacity is about 180 beds (plus 88 in the winter).<sup>28</sup>

<sup>24</sup> Interview with Eileen Hayes, May 5, 2005.

<sup>25</sup> Rhode Island Emergency Shelter Information Project. *Emergency Shelter Report 2004*, p. 19. Accessed at: <http://www.rihousing.com/pdf/Emergency%20Shelter%20Report%202004.pdf>.

<sup>26</sup> *Ibid.*, p. 11.

<sup>27</sup> *Ibid.*, p. 14.

<sup>28</sup> See Appendix C.

Eight of the focus group participants had stayed in emergency shelters, but none had positive reviews. One said, "if it was warm out, I'd rather pitch a tent out in the woods somewhere," and many agreed with this sentiment. A few focus group participants indicated that emergency shelters made remaining employed more difficult because of the shelters' hours of operation. One participant stated that the shelter does not work for working people:

I work every day, so, I mean, I don't want to get up at five o'clock in the morning and hang around three hours before I go to work and then *maybe* get a chance of getting back in there because I don't get out of work 'til seven or eight at night.

Another indicated that the combination of open hours and limited bed space seemed to impose a choice between retaining work or shelter:

I worked with the person at the shelter place, but that was useless.... I wasn't guaranteed a bed so if I went to work, then it was either go to work and stay up all night to go to work the next day, or not go to work and go to the shelter....

When discrimination and a lack of transitional and private market options force working people with criminal records into emergency shelters, their employment and other life areas can become destabilized. Respondents also indicated a lack of pro-social activities to counterbalance this destabilization: "there's no kinds of programs in these shelters."

#### Private Rental Housing Market

The housing market in Providence has undergone a dramatic shift over the last eight years as neighborhoods across the city have been gentrified. Prices for multifamily homes alone rose 230 percent between 1995 and 2003. In 2003, prices increased 41 percent, then another 37.6 percent in the first half of 2004 alone.<sup>29</sup> These exponential increases, the fastest in the nation, have directly translated to rising rental prices that are displacing low-income families. The average rent for a studio apartment in 2003 was \$697, an 11 percent increase from 2002.<sup>30</sup> During the same year, median income statewide only increased a marginal one-half percent.<sup>31</sup> As a result, people are doubling up and committing a greater share of their income to pay for rent, often being forced to sacrifice food, health care, utilities and other necessities.<sup>32</sup>

RI's housing market is among the tightest in the country; as a result, discrimination is more likely

These market pressures have created an owners' market; demand is so high that owners have the leverage to not only raise rents, but also to choose "low risk" tenants from a larger pool of interested applicants. Owners, acting within the market's logic, are destined to consider the financial stability and criminal history

<sup>29</sup> Providence Housing Authority. *Annual Report*, p. 2.

<sup>30</sup> Rhode Island Housing. "Quarterly Rent Survey of Newspaper Rental Listings."

<sup>31</sup> Office of Federal Housing Oversight, House Price Index: Fourth Quarter 2002, March 3, 2003. Cited in: Housing Works, "Housing Fact Sheet."

<sup>32</sup> 16 percent of housing units in the Making Connections neighborhoods were overcrowded compared with only 8 percent of Providence housing units. US Census.

of prospective tenants. People released from prisons and those with a record are now facing more than the expected unwillingness to rent to "ex-offenders" because the severity of discrimination intensifies as the market tightens.

Rhode Island's Fair Housing Practices Act assures equal access to housing for nearly every minority group with a history of discrimination:

All individuals regardless of race, color, religion, sex, sexual orientation, gender identity or expression, marital status, country of ancestral origin, or disability, age, familial status, or those tenants or applicants, or members of a household, who are, or have been, or are threatened with being, the victims of domestic abuse, or those tenants or applicants who have obtained, or sought, or are seeking, relief from any court in the form of a restraining order for protection from domestic abuse, equal opportunity to live in decent, safe, sanitary, and healthful accommodations anywhere within the state in order that the peace, health, safety, and general welfare of all the inhabitants of the state may be protected and insured.<sup>33</sup>

While these groups have supposedly been afforded equal opportunity to housing, disproportionate rates of blacks and Latinos with criminal records mean disproportionate rates of housing discrimination and homelessness.<sup>34</sup>

As a result of not being a protected class, people with criminal records face *legal* discrimination in the private rental housing market. All but one focus group participant attempted to obtain housing in the private market during their housing search and they all had been turned down at least once because of their criminal record. Many reported that landlords ask for background criminal investigations: "a criminal record in the state of Rhode Island...just try to get a house...landlords want BCI checks." Another participant reported about the private rental listings and landlords' unwillingness to rent to someone with a criminal record: "there's a lot of dead ends."

One focus group participant recently released from prison knew that his criminal record would make owners wary of renting to him. In order to counter skepticism, the participant prepared a portfolio of certificates from treatment, educational, and employment programs he had completed to demonstrate his commitment to living a clean and sober life, but still faced discrimination: "I'm doing the footwork that I'm supposed to be doing to maintain on the straight path...and here I am; I'm struggling, getting the doors slammed in front of my face because I have criminal charges."

Other participants expressed frustration with seeing out-of-state property owners deciding whether they could live in their own neighborhood: "A landlord from out of state has no conception of what the community is about; what the person is about; they're just in it for the almighty dollar."

<sup>33</sup> Rhode Island General Laws, § 34-37-1, Section (b).

<sup>34</sup> *Emergency Shelter Report 2004*, p. vii. "Black people in the state had a rate of shelter use this year of 21.9 per 1000 compared to 3.5 per 1000 for Whites. ... Hispanics had a rate of 11.3 per 1000."



Housing advocates define housing as affordable when it costs no more than 30 percent of a household's income. In tight housing markets like Providence, even middle-income families are paying more than that. Affordability for focus group participants (including the family members of incarcerated individuals, who responded on their own behalf) ranged depending on current levels of income, but in all cases were below market rate rents in the private market:

Ideal Monthly Rent	Number of Participants
\$50	4
\$100 - \$200	2
\$400 - \$500	3
\$600 - \$700	3 (1 of whom needs three bedrooms for \$700 total)

The degree of legal discrimination faced by people with criminal records because of not being a protected group in Rhode Island's Fair Housing Practices Act has resulted in some of the very conditions that the statute wanted to guard against:

[Discriminatory] practices tend unjustly to condemn large groups of inhabitants to dwell in segregated districts or under depressed living conditions in crowded, unsanitary, substandard, and unhealthful accommodations. These conditions breed intergroup tension as well as vice, disease, juvenile delinquency, and crime; increase the fire hazard; endanger the public health; jeopardize the public safety, general welfare and good order of the entire state; and impose substantial burdens on the public revenues for the abatement and relief of conditions so created.<sup>35</sup>

*RI's fair housing law does not protect former prisoners, undermining the law's intent*

Beyond the overwhelming and seemingly unavoidable barriers to securing housing in the private market, there have been signs that certain private property owners would be willing to house people with criminal records if a program could help facilitate and screen tenants. Research needs to be conducted about whether the number of owners who would be willing to join such a program is significant enough to warrant the initial program development costs.

<sup>35</sup> Rhode Island General Laws, § 34-37-1, Section (a).

### Correctional Institutions as Housing

In light of the limited availability of housing for people with criminal records, Rhode Island's Adult Correctional Institutions are perceived to be, and have ultimately become, a state subsidized form of housing. Several focus group respondents indicated that they or people they knew had purposely utilized the prison as a form of housing—especially during the cold winter months when the emergency shelters are often full. (See Chapter One.)

When considered as a punitive form of fully state subsidized housing, correctional institutions rival the PHA in capacity as a housing development for low-income Providence residents, especially for single men. Rhode Island's correctional institutions house approximately 3,200 men and 300 women at any given time, including nearly 1,000 individuals from Providence.<sup>36</sup> By comparison, the PHA provides 1,400 units to families, and there are only an estimated 1,000 total units of emergency, transitional and supportive permanent housing available in Providence.

The research team does not mean to suggest that all prisoners committed their crimes in order to satisfy their housing needs, or that people in prison prefer their confinement to other housing options. Rather, the team wants to point out that prisons are fully state subsidized institutions that house individuals who are at risk of homelessness, and prisons represent a rare type of housing that does not discriminate against people with criminal records (in fact, past convictions make incarceration all the more likely).

Beyond the realization that the state is already subsidizing the potential housing needs of thousands of residents through its prisons, there are also consequences for the assessment of housing demand in Rhode Island. Unless we take into consideration what the housing needs of people in prison will be upon release, we are potentially diluting our estimates of shelter, transitional, and permanent housing needs by up to 3,500. Since these people are in the prison when shelter populations are tabulated and Census statistics are recorded, the base populations of the neighborhoods where these people will return are erroneously reduced. Failure to take the incarcerated population into account makes housing pressure in the state appear less dire than it would be without the prison. In fact, the prison as housing reduces the homeless population requiring emergency shelter and those who might otherwise place strain on the often already overcrowded housing of family or friends.

<sup>36</sup> Rhode Island Family Life Center analysis of Rhode Island Department of Corrections: data files of sentenced and supervised offenders (June 30, 2004).

**Conclusion**

Together, legal discrimination and heightened demand severely restrict people with criminal records from accessing public housing, transitional and supportive housing, and rentals in the private housing market. Emergency shelter and correctional institutions are the only two housing systems that do not discriminate in policy or practice against the formerly incarcerated.

Unfortunately, emergency shelters and prisons are the least constructive environments for people with criminal records. Frequently excluded from more supportive housing options, people with criminal records are more likely to live in crowded or substandard conditions, face extended periods of homelessness, and find it hard to build a stable life—factors that together make their re-incarceration and the negative collateral consequences for their family, children, and community, all the more probable.

The housing options most available to the formerly incarcerated often foment instability

## 3

### Towards Stable and Safe Communities: Recommendations for Preserving, Stabilizing and Expanding Housing for the Formerly Incarcerated

#### Executive Summary

Rhode Island is experiencing a housing crisis: there is not enough affordable housing for all low-income residents, formerly incarcerated or not. Immediate action must be taken around the housing needs of ex-prisoners, but the recommendations in this section must be viewed and enacted collectively, and within a comprehensive plan to solve the crisis for all.

Programs must be developed and policies changed to prevent discrimination against ex-prisoners and to mitigate the perceived risk that formerly incarcerated tenants pose to housing providers. Further, we need programs to support families who want to welcome formerly incarcerated relatives home without incurring undue risk. Finally, Rhode Island must expand its stock of low-income housing while giving special attention to developing housing for ex-prisoners.

#### Rhode Island's Housing Crisis

Rhode Island has one of the tightest housing markets in the country, and as employment opportunities and wages fail to keep pace with housing prices, it is only getting tighter. Over 97,000 households (including nearly 40 percent of all renter households) are feeling the housing crisis directly, as they are paying monthly rent or mortgages that are too high for their income. These families are sacrificing food, clothing, transportation, medical care, and other necessities to maintain their living situations. More than 50,000 of these households are spending over half their income on housing.<sup>1</sup> According to *Affordable Housing for Rhode Island*, a study commissioned by the Woonsocket Neighborhood Development Corporation (WNDC), for all Rhode Islanders to be paying a fair price by 2010, the state needs to subsidize or lower rent for 50,000 households and develop 18,498 affordable units and 18,498 new market-rate units.<sup>2</sup>

50,000 existing  
RI households need  
subsidies

RI needs 37,000  
new units

<sup>1</sup> Eric Hangen et. al., for the Woonsocket Neighborhood Development Corporation and the Housing Network of Rhode Island, *Affordable Housing for Rhode Island: Goals for Cities, Towns and Regions to: Build their Economy, Help their Neediest Neighbors, Support their Workforce and Grow Smart*,  
<sup>2</sup> Community Development Consulting, 2004, p. 30. The study explains the housing crisis in detail, correlating it with projected job and population growth.

<sup>2</sup> Ibid., p. 6.

Recommendations I:  
Existing housing  
must become less  
discriminatory and  
more stable

Providence bears the greatest share of the burden; the study prescribes that, by 2010, 7,720 existing units of housing must become affordable while the city needs 4,788 new units of affordable housing and 4,788 new units of market-rate housing.<sup>3</sup> As a greater number of low-income individuals and families contend for the same housing, providers (be they landlords, Community Development Corporations or the Public Housing Authority) must pick and choose between prospective tenants, and they have the luxury of choosing those who they perceive to pose the least risk. As documented in the previous chapters, they often discriminate against the formerly incarcerated and their families. They choose one group of low-income tenants over another, based on differing relations to the criminal justice system. *The first set of recommendations seeks to work directly against discrimination and to mitigate the perceived risks posed to housing providers by the formerly incarcerated and their families.* Included among these are recommendations to stabilize the current housing options of ex-prisoners, as well as recommendations to support family reunification and the ability of families to house members returning from prison.

Recommendations II:  
We must develop  
new housing for all  
so that we do not  
simply displace risk

However, any solution that simply makes existing affordable housing more available to the formerly incarcerated may have the unintended consequence of displacing the risks associated with unstable housing from one group of low-income people (those who have been or are justice-involved) to another (those who have not been justice-involved). We must not pit the interests of these two interrelated groups against each other. To permanently solve the problem of housing instability among the formerly incarcerated, Providence will need to develop more affordable and non-discriminatory housing for all, as well as supportive and transitional housing for the formerly incarcerated. This will lower the burden that expanded opportunities for the formerly incarcerated may place on the market for those not involved in the criminal justice system. *The second set of recommendations below seeks to create new housing resources for all low-income Rhode Islanders, with special attention to the formerly incarcerated.*

<sup>3</sup> Ibid., p. 7.

### Interested Parties

Who is responsible for implementing these recommendations to meet the housing needs of the formerly incarcerated? Some of the recommendations target particular organizations or sets of organizations. However, some of the programmatic recommendations could be undertaken, funds permitting, by any organization with a stated interest in successful prisoner reentry and/or creating safer communities by increasing the supply and quality of low-income housing. Presently, not one agency or group is responsible for ensuring that people returning from prison, or those with criminal records, are able to find appropriate housing.

In other words, the targets of these recommendations include (but are not limited to) all levels of government, discharge planning (the Department of Corrections), probation and parole (the Department of Corrections), shelters, transitional housing providers, supportive housing providers, private landlords, community development corporations (as well as the property management associations that they employ), the local housing authorities, the Department of Housing and Urban Development and anyone interested in funding programs aimed at addressing this issue.

### *Auxiliary Concerns: Strategy and Practicality*

For each of these entities, however, there are factors that limit their ability to implement the recommendations that apply to them. Discharge planning agencies are responsible for making a plan with individuals prior to release, but have few or no resources to help those same individuals realize those plans after release. In addition, since discharge planning is a function of contracted non-profits, they are usually powerless to influence and coordinate release from prison with probation or parole officers. To implement changes, discharge planning entities would need funding and/or appropriate institutional change within the Department of Corrections. Probation and parole ostensibly promote rehabilitation and protect communities by preventing recidivism.<sup>4</sup> However, caseloads are too high for officers to do in-depth planning for housing.

To do better in this regard, probation and parole would require a serious reorganization of resources within the Department of Corrections. Similarly, shelters, supportive housing providers and transitional housing providers would need more resources, either through independent funding and/or policy change, in order to provide more services or increase capacity. Finally, policy change in local housing authorities could, depending on its scope, be an internal decision or set at the federal level by HUD. Congress would have to budget increased resources for housing authorities, but such a change would only affect recently released felons if accompanied by a change in discriminatory policies.

<sup>4</sup> Rhode Island Department of Corrections, "Division of Rehabilitative Services." Accessed at: [http://www.doc.ri.gov/divisions/rehab\\_service.htm](http://www.doc.ri.gov/divisions/rehab_service.htm).

**Effective Case Management and Meaningful Family Reunification**

A strategy to make stable housing available to ex-offenders must include some combination of the following recommendations. However, the research team overwhelmingly recommends that any programmatic plan incorporate intensive case management for former prisoners and their families. To work, the programs described below will need a component to ensure that individuals and families maintain sobriety, healthy relationships, and employment, and have support if they falter. In addition to providing this support, case managers can train clients to negotiate the exigencies of housing—teaching everything from financial literacy to neighborliness. Finally, case managers can serve as references and mediators if relations between tenants and housing providers are strained. Additionally, whenever possible, case management should include the facilitation of family reunification. Family reunification is a good indicator for long term housing stability even when the formerly incarcerated individual is not necessarily moving in with family. Whenever mentioned below, case management should be taken, ideally, to include all of these components. The research team believes that any good-faith effort to confront the problems described in this report must include case management and, when possible, family reunification.

**Recommendations I:  
Ending Discrimination, Mitigating Risk,  
Stabilizing Current Options, and Supporting Families**

*National Policy*

1. **Oppose the cuts to public housing—Section 8 vouchers in particular—in the President's current budget proposal.** Because of inadequate funding for the voucher program in last year's budget, HUD recently informed local housing authorities that 2005 funding would be below levels needed to maintain current levels of assistance. Although the Administration's 2006 budget proposal purports to undo half of the reduction in 2006, it cuts \$3 billion from other housing programs. After 2006, under the current proposal, funding for all low-income housing programs, including Section 8, will continue to plummet.<sup>5</sup> The Center for Budget and Policy Priorities estimates that if the current proposal goes into effect, 1,073 Rhode Island families will be dropped from housing assistance by 2010.<sup>6</sup> Although much public housing is closed to those with criminal records, opposing this budget proposal is crucial. Any further limits on the general availability of public housing will tighten the market for all low-income Rhode Islanders, including the formerly incarcerated, who may, because of legal discrimination, bear the brunt of any further strain on the market.
2. **Support the Federal Second Chance Act.** In April of 2005, Representatives Rob Portman (R-2<sup>nd</sup>/Ohio) and Danny K. Davis (D-7<sup>th</sup>/Illinois) reintroduced the Federal Second Chance Act (H.R. 1704), "a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on federal programs and activities relating to the reentry of offenders into the community."<sup>7</sup> The bill was first introduced in the 108<sup>th</sup> Congress. Among its many provisions, the bill makes funds available to both states and local agencies for services and programs facilitating safer prisoner reentry. The bill is currently in the House Judiciary Committee and the House Committee on Education and the Workforce.

The proposed cuts could be catastrophic for RI's already tight market

The Federal Second Chance Act would provide crucial funding for reentry housing programs

<sup>5</sup> Center on Budget and Policy Priorities, "Low-Income Housing Vouchers Could Be Cut Significantly Under Administration Proposal," Feb. 18, 2005. Accessed at: <http://www.cbpp.org/2-18-05hous-pr.htm>.

<sup>6</sup> Center on Budget and Policy Priorities, "Estimated Voucher Funding Shortfalls in 2005, 2006 and 2010: Rhode Island," Revised March 8, 2005. Accessed at: <http://www.cbpp.org/states/2-18-05hous-ri1.pdf>.

<sup>7</sup> Thomas Legislative Information on the Internet, "Bill Summary and Status for the 108<sup>th</sup> Congress: H.R. 1704." Last major action: May 9, 2005. Accessed at: <http://thomas.loc.gov>. Search results expire.



3. **Pass legislation to alter HUD and Public Housing Authority policies regarding individuals with criminal records.** As noted, the PHA, the largest low-income housing provider in Providence, is subject to restrictive guidelines set at the federal level, and, in some instances, uses even more severe policies to discriminate against individuals with criminal records. These policies, ostensibly developed to increase public safety, must be reconsidered in light of their actual effect on individuals and the families and communities to which they return. Actions can be undertaken both at the federal level (HUD and Congress) and at the local level (local public housing authorities). The U.S. Congress must repeal the outright bans on public housing for certain types of offenders, and Congress and HUD must require housing authorities to individually evaluate each applicant with a criminal record.

*State and Local Policy*

4. **Oppose the passage of bills in Rhode Island that would make it harder for individuals with criminal records to find and maintain secure housing.** There are three bills currently under consideration in the Rhode Island State General Assembly that would require landlords to be notified when their tenants are on community confinement, increasing the likelihood of discrimination.<sup>8</sup> Release to community confinement is contingent upon having a place to stay. Thus, these measures would threaten the integrity of the community confinement program and delay the release of the eligible until they can be released for time served without the guarantee of having found housing in advance. S0240 and H5700 would require leaseholders placed in community confinement to notify their landlord. S0572 is even more restrictive, requiring leaseholders to notify landlords when anyone (whether or not they are on the lease) living in the unit is on community confinement. S0572 is particularly threatening to the prospects of family reunification, which, as discussed, is often the best hope that ex-prisoners have for secure housing. The act also threatens the relative security of couch-surfing, which, although not the most stable housing option, keeps individuals from living on the streets or utilizing shelters.

<sup>8</sup>State of Rhode Island in General Assembly, "An Act Relating to State Affairs and Government—Corrections Department," (All three bill share this title), 3/28/2005. Accessed at: <http://www.rilin.state.ri.us/Billtext/BillText05/SenateText05/S0240.pdf>; <http://www.rilin.state.ri.us/Billtext/BillText05/SenateText05/S0572.pdf>; and <http://www.rilin.state.ri.us/Billtext/BillText05/HouseText05/H5700.pdf>.

5. **Support the passage of bills in Rhode Island that would address homelessness.** There are three bills currently under consideration in the Rhode Island State General Assembly that would appropriate resources for the state to examine and fight homelessness. H5385 (The Housing First, Ending Homelessness Initiative) and H5793 (The Shelter to Housing Program) would create a program, administered by the Office of Homelessness and Emergency Assistance within the Housing Resources Commission, designed to move homeless individuals and families from shelters into rental housing. H5298 would appropriate \$350,000 for the Housing Resources Commission to continue to administer the Supportive Services Program, which aids in the prevention of homelessness.
6. **Consider amending Rhode Island's Fair Housing Practices Act to limit consideration of a criminal record by landlords.** Rhode Island's Fair Housing Practices Act was enacted to protect individuals from being denied equal opportunity due to their race, gender, sexuality, and other real or perceived differences. The Act states that, "In order to aid in the correction of these evils [segregation, homelessness, crime, etc], it is necessary to safeguard the right of all individuals to equal opportunity in obtaining housing accommodations free of discrimination." Racial and gender disparities among those released from prison and with criminal records become disparities in housing discrimination and homelessness. As a result, the equal opportunity intended by Rhode Island's Fair Housing Act is unachievable. The state should consider including people with criminal records as a protected class.
 

Legal discrimination  
against ex-offenders  
undermines RI's  
Fair Housing  
Practices Act
7. **Pass legislation to protect those who are evicted for short term incarcerations.** Many focus group participants reported being evicted by private landlords on short notice pursuant to short-term incarcerations, for such offenses as non-payment of court fines. Such actions already constitute a violation of a landlord's legal obligations to give sufficient time, notice and reason for eviction.<sup>9</sup> However, legislation to make this an expressed component of Rhode Island's housing laws would make landlords think harder about breaking the notification laws.
8. **Pass legislation to protect families that are evicted because of a relative's incarceration.** Family members in our focus groups also reported being evicted because of landlord suspicion after a relative's arrest. Again, such actions by a landlord are already illegal, but proactive legislation to protect the rights of family members of the incarcerated would specifically codify such violations.
 

Families should be  
supported, not  
punished by  
association

<sup>9</sup> State of Rhode Island and Providence Plantations, Department of Administration, Statewide Planning Program, "The Rhode Island Landlord-Tenant Handbook," 2000, p. 4. Accessed at: [http://www.uri.edu/commuter\\_housing/landlordtenant.pdf](http://www.uri.edu/commuter_housing/landlordtenant.pdf).

Support landlords  
willing to take a  
"risk" for public  
safety

9. **Offer tax credits, rent assistance or bonding to landlords willing to rent to individuals on welfare and ex-offenders in particular.** Landlords perceive formerly incarcerated tenants as both a safety risk and an economic risk. To allay these fears, state government could offer property tax credits to landlords willing to rent to this population or rent assistance to the formerly incarcerated who do find a landlord. Such a program could operate as a locally administered, non-discriminatory version of the housing assistance voucher program (Section 8). Alternately, in the spirit of the Federal Bonding Program, which provides an extra level of insurance to employers willing to hire "at-risk" job seekers, a bonding program around housing could reduce the perceived risk of renting to individuals with criminal records for private landlords and management companies.
10. **Upon release, allow individuals to use earnings in their commissary account for housing costs.** Currently, prisoners on the brink of release cannot count on the funds they have in their commissary account being available to them for the payment of a security deposit and/or first month's rent. Rather, these funds are often diverted for payment of court fines. The result is usually demoralization and a guarantee that former prisoners will be less able to secure rental housing shortly after release.

*Institutional/Program Policy and Recommendations for New Programs*

11. **Create or expand housing counseling and tenancy education programming at emergency shelters with a view to successful housing placement.** Many focus group participants reported leaving emergency shelters without finding stable housing and unable to mount an effective search. Shelters need funding to provide more programs that facilitate the entry of the homeless into the housing market.
 

Create more shelter-based programming
12. **Support families that may be evicted due to income loss or discrimination after the incarceration of a loved one.** The consequential punishment of families is one of the ways that incarceration impacts community safety. Families need access to programs to give them mental and material support, including, but not limited to, counseling, job training, landlord mediation and rent assistance.
 

Reentry programs must include families and must start before their relatives come home
13. **Reorganize probation, parole and discharge planning to better support the formerly incarcerated in their search for housing.** As of December, 2003, the average probation caseload in Rhode Island was 286, more than double the national average of 133.<sup>10</sup> Also, most discharge planning at the ACI ends after release. These institutions, which fall under the Division of Rehabilitative Services, are "committed to the meaningful reintegration of offenders into the community."<sup>11</sup> To fulfill this commitment, the division and the discharge planning agencies need the funds and support to provide meaningful and effective case management before and after release, particularly for housing. Furthermore, parole and probation officers must be aware of, and prepared to mitigate, the landlord suspicions (for both supervisees and families) that their presence might ignite during a home visit. "The focus of the parole field has shifted from linkages to services to monitoring and enforcement," and this shift must be reversed because research indicates that strategies that balance surveillance and treatment are the most effective at changing behavior and reducing crime.<sup>12</sup>

<sup>10</sup> Rhode Island Department of Corrections – Reentry, "Reentry Initiatives: Statistics," 2004.

<sup>11</sup> Rhode Island Department of Corrections, "Division of Rehabilitative Services." Accessed at: [http://www.doc.ri.gov/divisions/rehab\\_service.htm](http://www.doc.ri.gov/divisions/rehab_service.htm).

<sup>12</sup> The Reentry Policy Council, *Report of the Reentry Policy Council*, (New York: Council of State Governments, 2003), p. 343. Accessed at: [www.reentrypolicy.org/documents/rpc\\_report.pdf](http://www.reentrypolicy.org/documents/rpc_report.pdf).

Positive family  
reunification  
is key

14. **In partnership with the PHA and prisoner reentry programs, a family reunification program should be developed to allow people released from prison to live with family already admitted to public housing.** Stephen O'Rourke, Executive Director of the PHA, expressed interest in the Family Reunification and Employment Program that the Hartford, Connecticut Housing Authority has developed. The program targets "at-risk" young fathers and facilitates their ability to become sober and employed, and reintegrate with their families in a positive way.<sup>13</sup> The program does not specifically target ex-offenders, but its structure and successes are encouraging signs that a public housing authority can allow case managers to work with specific individuals in their developments.
15. **Create a family reunification program for ex-offenders whose families do not live in public housing.** As discussed in this report, former prisoners with families that are willing and able to support and house them are often more successful in the long run. Such a program could identify offenders who have family that: 1) is willing and able to house them; or 2) is unwilling and/or unable. For those in the latter category, the role of a case manager would be to provide support and/or facilitate the repair of damaged relationships that might make a family reticent to house a loved one returning from prison. In all cases, the program's goal would be to provide consistent counseling and resources to families as well as ex-offenders as they negotiate the difficulties of the reentry period.
16. **Consistently evaluate and document programs that are developed around housing for ex-prisoners.** In order to assure sustainability and adaptability, programs should document and collect data in order to facilitate internal assessment, evaluation, recidivism analysis, and applications for future funding.

<sup>13</sup> Hartford Housing Authority, "Family Reunification and Employment Program." Accessed at: <http://www.hartnet.org/hha/Firstpage/Pages/Bestpractices/Primary/FamilyReunification.htm>.

## Recommendations II: Expanding Housing Resources

1. **Build new low-income affordable housing that is not discriminatory.**  
Again, the affordable housing shortage must end, and new developments, whether built through traditional public housing or other initiatives, must not discriminate against those with records and must be willing to work with programs for ex-prisoners to create safer communities.
2. **Pilot an innovative transitional housing program for individuals released from incarceration that demonstrates how the provision of housing in a pro-active manner can reduce recidivism.** According to research on recidivism, the first year after release is the most important time period for providing support to individuals at risk of re-incarceration. Within that year, the first three months are even more critical.<sup>14</sup> Current housing systems, as this report documents, are designed in a reactive fashion offering the least stable housing first, and more supportive housing only upon evidence of desistance from drugs or crime. Reactive systems, however, have less of an impact. By not providing support and services during a released individual's most critical period, the housing system waits to see whether the person will succeed or fail. A recent New York City study found that risk of recidivism increases 17 percent for those who end up in emergency shelters upon release.<sup>15</sup> Providing services pro-actively to individuals immediately after release will likely be more effective at reducing recidivism.

Individuals facing housing instability upon release need programs suited to their needs

Such a program should include: an emergency rent support fund; supportive and holistic case management; support for family reunification where possible; life skills and budgeting workshops; pro-social activities (sports, education, hobbies, etc); employment training and placement services, and tenant's rights training.

<sup>14</sup> Marta Nelson, Perry Dress and Charlotte Allen, *The First Month Out: Post-Incarceration Experiences in New York City* (New York: Vera Institute of Justice, 1999). Cited in: *Report of the Reentry Policy Council*, p. 259.

<sup>15</sup> Stephen Métraux and Dennis P. Culhane, "Homeless Shelter Use and Reincarceration Following Prison Release: Assessing the Risk," *Criminology & Public Policy* 3, no. 2 (2004): 201-222. Cited in: *Report of the Reentry Policy Council*, p. 259.

Providence needs  
more housing with  
services, and more  
of it must be open to  
ex-prisoners

3. **Expand the number of transitional and permanent supportive housing units to appropriately meet the need.** Currently, the lack of transitional and permanent supportive housing means that many individuals with criminal records must "select" prison as their housing "option". Given the expensive (\$35,000/yr) cost of housing an individual at the prison, and the resulting discrimination made all the more likely by a prison sentence, the state and its taxpayers should support transitional and permanent supportive housing, which are more cost-effective. Because of their inherent instability, shelters make finding employment, reunifying with family, and maintaining sobriety all the more difficult.

We recommend that the advocacy organizations working with the formerly incarcerated, homeless, and affordable housing providers research the number and type of units needed for people released from prison and those who are currently homeless due to discrimination because of their record. The proper mix of transitional and supportive housing must also be determined.

In 2000, the City of Providence's HUD Consolidated Plan estimated the unmet gap in transitional housing for individuals to be 176 units for individuals, and 307 units for persons in families with children.<sup>16</sup> The unmet gap in permanent supportive housing was 1080 beds/units for individuals, and 707 beds/units for persons in families with children.<sup>17</sup> With a tightening housing market and more people being released from prison, we estimate the overall need to be twice this number.

With demand adequately assessed, a cost comparison can be conducted to test the cost-effectiveness of transitional and supportive housing compared to the correctional and social costs of recidivism, incarceration, and the collateral consequences. This analysis should then form a basis for these advocacy groups to pressure state government and broad-based housing coalitions to housing for the formerly incarcerated in long-range plans for affordable housing development.

Finally, case management in these units should be well equipped to address co-occurring disorders and issues related directly to past criminal activity and incarceration.

<sup>16</sup> City of Providence. *Consolidated Plan 2000-2005*, June 2000. (See Table 1A, Homeless and Special Needs Population.) Accessed at:

[http://www.providenceri.com/government/public\\_notices/consolidated-plan-2000\\_2005.pdf](http://www.providenceri.com/government/public_notices/consolidated-plan-2000_2005.pdf)

<sup>17</sup> Ibid.

4. **Support legislation to expand the funding for the Neighborhood Opportunities Program.** H5175 and S0651, currently under consideration, would increase funding for the Neighborhood Opportunities Program to \$7.5 million.<sup>18</sup> The program works in Rhode Island's deteriorating neighborhoods to produce affordable housing for families, produce permanent supportive housing and foment neighborhood revitalization through grants to community organizations.
5. **Support legislation to provide funds to community development corporations building affordable housing, and make sure that they build housing that is open to individuals with criminal records.** H5358, currently under consideration, would establish a community development corporation fund in order to provide supplemental funding to nonprofit organizations building affordable housing. While this legislation is vital, it is also necessary to guarantee that community development corporations will not build discriminatory housing with any funds appropriated through the act.
6. **Foster and act on the willingness of community development corporations to develop supportive and affordable housing options for formerly incarcerated individuals and their families.** In conversations with various representatives of CDCs, there seems to be enthusiasm to address the severe gap in affordable and supportive housing for individuals with records and their families. Government has a role to fund new developments and their companion services, but CDCs must be willing to take the lead in demonstrating that neighborhood safety is enhanced when individuals with criminal records – many of whom also have substance abuse and mental health needs – have a more stable housing environment that provides holistic, pro-social support.

New affordable housing must be open to the formerly incarcerated

Community development corporations have a natural interest in solving this problem

<sup>18</sup> State of Rhode Island in General Assembly, "An Act Relating to Housing Resources—Neighborhood Opportunities Program," 4/12/2005. Accessed at: <http://www.rilin.state.ri.us/Billtext/BillText05/HouseText05/H5175.pdf>



With sound,  
evidence-based  
policy we can  
respond more  
effectively

7. **Establish an authority to coordinate the development of housing for the formerly incarcerated.** We recommend that the Governor's Steering Committee on Corrections Reform and Prisoner Reentry establish a single authority to coordinate and spur development of appropriate community-based housing options for individuals released from prison, on probation or parole. Such an authority could be developed alongside, and in collaboration with, the reformed Division of Rehabilitative Services described in Recommendation I-13. Knowing the challenges and discrimination that people with criminal records face when trying access housing, the state's investments in supervising probationers and parolees seem unproductive when stable housing appears to be as much, if not more, of a deterrent than supervision itself. Rhode Island spends \$9 million annually on supervising how well probationers and parolees succeed or fail (50% are re-incarcerated within 3 years; 33% do so in the first year alone), when just \$5 million could be used to double funding for the Neighborhood Opportunities Program. Rhode Island's housing organizations must begin considering former prisoners seriously as they assess the needs of low-income residents. An authority properly empowered could foment this shift.
8. **Give the parole board power to fund transitional housing so that more are eligible for parole.** Prisoners in Rhode Island cannot be released on parole without proof of secure housing upon release. As a result, most must wait to be released on probation, at which time they have no institutional mandate to find housing. If the parole board were able to fund transitional housing, parole—and the attendant housing security—would be a more viable option for more individuals. If the parole board has the authority to deny parole and spend taxpayer dollars to continue a term of incarceration (at \$35,000 per year) it should have the power to spend money to support its decisions to release individuals otherwise suited for parole.

## Appendix A

### Focus Group Procedure and Participants' Backgrounds/Histories

**Section Summary**

This appendix describes how focus group participants were located and gives an overview of participants' backgrounds, recent housing history, recent correctional history as well as their locations. For information on participants' family situations, see Chapter One, page 12.

The research team strongly suggests reading this section, as it provides more context for the analysis in Chapter One and the recommendations in Chapter Three.

#### Focus Group Procedure

Focus groups met in two groups of nine, one week apart, for two hours each, in December of 2004 at the Family Life Center. Participants received 50 dollars for their time and were solicited through flyers posted at the Family Life Center's Resource Center, community centers and shelters on the Southside of Providence. Also, Family Life Center clients and volunteers were encouraged to attend and to spread the word. While the flyer indicated that participants would be compensated, it did not say how much. Prospective participants either responded by telephone or came to the Family Life Center for brief interviews to establish that they were in the target group before being told how they would be compensated.

#### Backgrounds of Focus Group Participants

The 18 respondents consisted of 15 formerly incarcerated individuals and three family members of inmates (two current, one former).<sup>1</sup> One such respondent was a woman whose daughter was currently incarcerated; one was a woman whose partner was currently incarcerated, and one was a man whose father had been incarcerated. For some questions, these participants were asked to answer on behalf of their relative; for other questions they were asked to answer for themselves, and some questions, these three did not answer. Of the 15 formerly incarcerated individuals, eleven were men and four were women. Of the 18

<sup>1</sup> Many formerly incarcerated respondents also had formerly or currently incarcerated relatives.

respondents, eight were African-American, eight were white, and two were Hispanic. Respondents ranged in age from early 20s to late 50s, and one respondent was a Family Life Center volunteer. The majority of respondents had seen our flyer at local shelters. Some respondents heard about the focus groups from Family Life Center clients and/or volunteers. Some respondents in the second focus group heard about it from participants in the previous one. Certain questions were only asked at the second focus group, which consisted of eight former inmates and the one man whose father had been incarcerated. This group consisted of seven men and two women.

#### **Recent Housing and Correctional History of Focus Group Participants**

The first series of questions established where respondents were living immediately before their most recent incarceration (12 of the 15 formerly incarcerated respondents were repeat offenders), how long their most recent period of incarceration at the ACI was, where they lived immediately after being released from prison, how long they've been out and where they currently reside. For all but two of these questions, the three respondents who were family members of the incarcerated responded on behalf of their incarcerated relative. The first exception was the question, "What is your current housing situation?" For this question, we wanted to understand the relative stability of housing both for individuals who have been incarcerated and for individuals who might have experienced auxiliary consequences from the incarceration of a family member. We also wanted to understand how many of our participants call the Making Connections Providence target area home. Thus, all participants, regardless of criminal record, answered this question on their own behalf.

#### *Housing Situation of Focus Group Participants Before Most Recent Incarceration*

Eight individuals reported that they (or their incarcerated family member) were living in a homeless shelter before their most recent incarceration. Five reported that they were living with family.<sup>2</sup> Three reported renting at market rate. One reported living in public housing and one reported couch surfing.<sup>3</sup>

#### *Length of Most Recent Incarceration*

Seven individuals reported that they (or their incarcerated family member) spent less than one month at the ACI during their most recent incarceration. One individual spent between one and six months at the ACI; two spent between six months and one year at the ACI; four spent between one and three years at the ACI, and four spent more than three years at the ACI. Responses to this question from family members of the currently incarcerated were based on the amount of time they expected their loved one to serve.

<sup>2</sup> For this document's definition of "living with family," see Chapter One, p. 10, note 7.

<sup>3</sup> For this document's definition of "couch surfing," see Chapter One, p. 10, note 8.

*Housing Situation Immediately After Most Recent Release From Incarceration*

Six individuals reported that they (or their incarcerated loved one) lived in a homeless shelter immediately after their release from the ACI. Five reported couch surfing. Three reported living with family. One reported living in transitional housing, and one reported being a market rate renter (in this case, living with family in a permanent manner). Responses were not collected regarding the two respondents whose family members were currently incarcerated.

*Time Since Most Recent Release From Incarceration*

Six respondents reported that two or more years had passed since their most recent release from the ACI. Four reported that between one and two years had passed. Four reported that between three months and one year had passed, and two reported that three months or less had passed. This question was not applicable for the two respondents whose family members were still incarcerated.

*Current Housing Situation of Focus Group Participants*

Finally, people explained their current housing situation. For this question all participants responded on their own behalf. Seven were living at a homeless shelter. Three were couch surfing. Three were living in some form of subsidized housing (section 8, supportive or transitional). Three were renting at market rate (including the two individuals with a currently incarcerated family member), and two were living with family (including the individual whose father had been incarcerated).

*Housing/Correctional Trajectories*

In addition to the questions about their recent history, the eight formerly incarcerated respondents in the second focus group were asked about their housing situation before their first incarceration, allowing these trajectories to be determined. Note that only two respondents (D. and E.) experienced anything that could be considered a positive trajectory. D. moved from living with family and friends as an imposition to living in subsidized housing, and E. entered prison as a couch surfer but is now in transitional housing. Only one of the formerly incarcerated respondents from the first group reported any upward mobility during the period from before her most recent incarceration to the current time. Again, data was not formally collected on this groups' housing status prior to their first period of incarceration. However, many anecdotally described downward or static trajectories similar to the ones in figure A-1.

Figure A-1; Trajectories of Eight Focus Group Participants (Second Focus Group)

	Status: Before First Incarceration	Before Most Recent Incarceration	Length of Incarceration	Immediately After Last Release	Time Since Release	Current Status
A.	Homeowner	Market Rate Renter	One-two yrs.	Homeless Shelter	One-two yrs.	Homeless Shelter
B.	Market Rate Renter	Public Housing	Six mo. -one yr.	Couch Surfing	Three mos.- one yr.	Couch Surfing
C.	Market Rate Renter	Living with Family	Two or more yrs.	Living with family	Two or more yrs.	Living With Family
D.	Public Housing	Living With Family	Six mo. -one yr.	Transitional Housing	Less than three mos.	Transitional Housing
E.	Couch Surfing	Homeless Shelter	One-two yrs.	Couch Surfing	One-two yrs.	Subsidized Housing
F.	Couch Surfing	Homeless Shelter	One-two yrs.	Living with Family	One-two yrs.	Homeless Shelter
G.	Homeless Shelter	Homeless Shelter	Less than one mo.	Homeless Shelter	One-two yrs.	Homeless Shelter
H.	Homeless Shelter	Homeless Shelter	Less than one mo.	Homeless Shelter	Two or more yrs.	Homeless Shelter

*Geographical Position of Focus Group Participants*

Thirteen of the eighteen respondents live in the Making Connections Providence target area. This figure excludes those who are currently in a shelter in the Making Connections area but plan someday to move to a different neighborhood and includes those who are in shelters outside of the Making Connections area but plan to move back there. Two respondents live in Providence, but not in the Making Connections area. Two respondents live in Rhode Island's urban core, but not in Providence (although they are currently in a shelter in the Making Connections area), and one respondent was from suburban Rhode Island (but is also currently in a shelter in the Making Connections area). For these questions regarding geography, all participants were asked to respond on their own behalf.

## Appendix B

### Additional Focus Group Experiences and Perspectives on Housing

This section includes information from the focus groups not included in any of the previous chapters. This section consists primarily of notable quotes not recorded elsewhere in the report.

#### Drug Use/Mental Health

Fourteen respondents reported that they were abusing alcohol and/or marijuana in the month prior to their most recent arrest. Eleven reported using harder drugs in the month prior to their most recent arrest. Eight had a prescription for some type of mental health medication at the time of their most recent arrest and four of them were not receiving said medication.

#### Respondents on Housing, Incarceration and Eviction

One respondent reported that the Housing Authority tried to evict his father from projects after his arrest but did not succeed.

"I went down for [a crime]; that jeopardized my child, myself, my housing...they got rid of me."

One respondent who defaulted on his mortgage payments while in jail, resulting in the eviction of his family reported, "I had a house in \_\_\_\_\_ that I used to rent out and then I lived in one..... I got busted; they put my bail at 50k with surety; I couldn't come up with it, so I spent 76 days in incarceration until I could get the bail lowered.... I lost my home.... The mortgage has gotta be paid."

#### On Leaving Prison and Making Plans

"'You'll be back,' [the guards] said."

"I had a concrete plan, but it just didn't work out....I've been homeless pretty much since I got out."

### On Housing Discrimination

"You take down numbers, you call...you try. But, you go over there and they take one look at you and they say, 'I already rented it,' you know, excuses."

"That's the catch, it's the first, last, security they want."

"I had an incident at \_\_\_\_ .... I was saving money. I was living at \_\_\_\_, and they even gave me a hard time. So I was living at \_\_\_\_...before [my most recent incarceration], and I had a letter that I was a good tenant and everything like that.... I was on the waiting list for a couple of months, y'know, and I seen people in the building that I knew they were using and I knew they had records and all that. Y'know I was on the straight and narrow, y'know I had been clean and sober for almost a good year. So I was doing all the footwork; I had all my certificates like this man had right here [indicating another respondent], and I made copies for them...also I had my own folder with my own things in it, and the lady was very, very rude, even before she found out I had a record so I went there and I had seen her two or three times but one day I went there...I told her I had the money; I had six thousand dollars. She said, 'oh yeah, we can even get you an apartment; we got some studios; do you mind studio?' 'I said no, I don't mind anything, you can put me in a shoebox right now....' She said just come in tomorrow and we'll show you the apartment and everything, so I went there the next day and she said, 'well we have a problem,' I said, 'what?' She says, 'It's your BCI; you got some charges on there right?' because I have two drug delivery charges. I said, 'yeah, that was many many years ago,' which it was; I would say about seven years ago and one was ten years ago.... I went there all dressed up in my Sunday best and everything, and I told her, 'yeah, I've gotten help; I've gone to programs I have it all documented, y'know I have certificates from Talbot house outpatient in the jail parenting groups, all different kinds of programs, anger management, everything, and she says, 'well you have to have documentation for that.' I said, 'yeah, I do, it's right in your file. If you see, I made you copies.' She goes, 'well y'know we're a private industry and we're a private management company.' They're not HUD or Providence Housing; they said their company's from California. I said, 'well I don't even get a second hearing or anything like that?' She goes, 'no.' What could I do?"

"You can move into a place and once you're there...you have no control over what the landlord says after that; he can come in at any point and raise your rent, put all kinds of rules and regulations on you.... You can't have no house guests." (It is illegal in Rhode Island for landlords to raise rent without at least 30 days notice or to place such restrictions on tenants.<sup>1</sup>)

<sup>1</sup> State of Rhode Island and Providence Plantations, Department of Administration, Statewide Planning Program, "The Rhode Island Landlord-Tenant Handbook," 2000, p. 7. Accessed at: [http://www.uri.edu/commuter\\_housing/landlordtenant.pdf](http://www.uri.edu/commuter_housing/landlordtenant.pdf).

### On the Risks Associated with Unstable Housing and Unemployment

"I was homeless.... I used to buy my dope off a friend of mine... it's a vicious cycle."

"Everybody who was doing the drug stayed at the hotel with me."

"[A friend of mine] was found in [an abandoned] house on \_\_\_\_ Street, frozen to death.... Maybe he had a hard time getting an apartment because of his charges."

"I'm scared [a crime] might be committed against me."

"[My housing situation] makes me feel like I'm gonna hurt somebody."

"It demoralizes you."

One respondent, a seasonal worker who was laid off for the winter and expects to work again in the spring remarked, "Even me, I'm laid off now....It's frustrating because now, you gotta go look again. Because I don't like to sit back and wait for a check to come in the mail and whatever, unemployment or whatever, but now I gotta go on the street and look again, and I'm getting too old; my bones can't take it no more. It's cold."

"You become dismayed, confused, frustrated."

"My mom was a crack addict when I was a kid...10 or 11 years old.... They call the sheriffs when your rent's delinquent and they take all your stuff and they only give you, like, a day to get all your stuff out. We had so many problems, like my uncle was in jail, my mom was missing, my grandma had no car. They didn't care; we like wrote letters and called them and talked to them. They wouldn't do nothing; how could you not do nothing for like some ten year-old kid?"

"It's just a matter of time before I do something because I'm not gonna keep going this way."

"When you can't pay your rent, it'll make you wanna do something...especially when you have children."



**On Available Housing Options**

"There's no kinds of programs in these shelters."

"When you have housing, no matter what your situation is, it gives you a sense of calm.... When you live in your own home, the freedom, the joy, the pleasure that you get, is immense. When you live with somebody, it is a delicate balancing act. You know, you don't wanna step on anyone's toes.... It becomes stressful... It's when I'm staying with friends, family, and other places because you don't want to be an imposition.... You can be paying half the rent and still feel like you're leeching off somebody."

"If it was warm out, I'd rather pitch a tent out in the woods somewhere [than live in a shelter]."

**On Learning to Deal With Housing Providers While Growing Up**

"My mom, with dealing with landlords, you had to have a certain attitude.... You couldn't not know what the next thing to say was because they'll just be like this nigger don't know what the fuck he's talking about.... So I had to be like, 'I'm calling my uncle; my uncle's a lawyer, my uncle's a cop....' Lying to them, like, '[pull] something, and I'll just nail you.'"

## Appendix C

### What's Accessible:

### Emergency, Transitional and Supportive Housing Programs in Providence and their Policies Regarding People with Criminal Records

**Executive Summary**

This section presents basic information on 13 organizations providing emergency, transitional, and/or supportive housing in Providence or the immediate vicinity. Chapter Two of this report uses the findings of this section. Totals are on page 65.

#### Methodology

Information was collected via phone surveys with representatives of each of the organizations listed below. In cases where programs provide housing for families, the research team estimated the number of children being served to attain total capacity. Estimations were based on number of bedrooms in family units and the assumptions that siblings sometimes share bedrooms and that some families have only one parent.

#### *Reasonable Accessibility to Recently Released Individuals with Criminal Records*

Nearly all programs below have some kind of screening procedure, which may include Background Criminal Investigations. Programs were not considered reasonably accessible if:

- They did not admit individuals with violent charges less than five years old, including breaking and entering. (About 34% of people released in Rhode Island in 2003 were violent offenders.<sup>1</sup>)
- They did not accept people with "long drug histories." (About 22% of individuals released in 2003 were drug offenders, but nationally 80% of all prisoners have a history of substance abuse.<sup>2</sup>)

<sup>1</sup> Rhode Island Department of Corrections, *Prisoner Reentry in Rhode Island*, Presentation to the National Governor's Association (May 2004), p. 12. Accessed at: <http://www.doc.state.ri.us/pdf/RI-NGA%20presentation%2005-04.pdf>.

<sup>2</sup> Ibid.; Christopher J. Mumola, *Substance Abuse and Treatment, State and Federal Prisoners, 1997* (Washington, DC: US Department of Justice, Bureau of Justice Statistics, 1999). Cited in: *The Reentry*

- They had a target population other than or more specific than: the homeless, substance abusers and/or the recently released. Some programs, such as AIDS Care Ocean State or Nickerson House Gateway to Independence, had few blanket restrictions against the formerly incarcerated, but are so highly targeted that they could not be considered generally accessible to individuals returning from prison.
- For family programs that were reasonably accessible, only beds for parents were considered accessible.

*Reasonably Accessible Does not mean "Open"*

The term "reasonably accessible" is meant simply to denote that a program has no blanket screening policies that would apply specifically and prohibitively to the average individual who has recently been released from a term of incarceration. For the following reasons, programs that are reasonably accessible should not be mistaken for programs that are entirely or specifically open to former prisoners:

- Many programs considered reasonably accessible *do* consider criminal history when reviewing applicants; a record is not categorically prohibitive but, depending on its contents, can be a hindrance.
- Given the overall need for more transitional and supportive housing, many individuals, some with records and some without, are competing for the same beds.
- Turnover rates in all of the programs are extremely low.

**Abbreviations Used in this Section**

acc = accessible	emgcy = emergency	mos = months	supp = supportive
apt = apartment	fam = family	yrs = years	trans = transitional
asst = assistance	indiv = individual	prog = program	treat = treatment
bdrm = bedroom	m = men	res = residential	w = women
c = children	mgmt = management	sltr = shelter	wks = weeks
conf = confidential			

Notes on information presented in the table appear on page 65.

---

Policy Council, *Report of the Reentry Policy Council*, (New York: Council of State Governments, 2003), p. 180. Accessed at: [www.reentrypolicy.org/documents/rpc\\_report.pdf](http://www.reentrypolicy.org/documents/rpc_report.pdf)

Program Site	Total Beds	Emergency Shelter Beds	Trans Housing Prog		Supp Beds	Telecom	Prog	Target Population, Restrictions and Comments
Location			Beds	Length				Reasonably Acc to Formerly Incarcerated?
Advent House Elmwood	~170	12 m	64 m/w Advent II: 30 m Linwood: 16 m/18 w	2 yrs	~72 m/w/c studio apts: 56 m/w 5 two-four bdrm apts for single parent fams: ~16 m/w/c	Usually at capacity.  Long waiting list	Case mgmt  Transport to services	Mostly indivs with mental health and drug issues.  No sex offenders; no arsonists. For indivs with violent charges, charges must be at least 5 yrs old.  Must have been sober 90 days if coming from a prog; 180 days if coming from the street.  <b>Not Reasonably Acc</b>
AIDS Care Ocean State  Congregant Care Prog: Elmwood  Sunrise House: Hope  HUD-funded units: Pawtucket  Apts scattered throughout RI, 65% in Providence	~126		6 m/w  Congregant Care Prog	18 mos	~120 m/w/c  Sunrise House asst living facility: 10 m/w  15 HUD- funded units: 20 m/w  6 apts (owned by AIDS Care): ~20 m/w/c  33 one-three bdrm apts (leased by AIDS Care): ~70 m/w/c	Usually at capacity  42 person waiting list for supp housing, and little turnover	Case mgmt  Rent asst  Healthcare asst	Fams and indivs affected by HIV, that are low- income by HUD rule.  No one who has previously been evicted from AIDS Care housing.  AIDS Care doesn't require BCI checks, but doesn't allow child abusers and rarely has people coming directly from prison.  Sobriety required.  <b>Not Reasonably Acc</b>
Amos House  Upper South Providence, Elmwood  One building in Silver Lake	~120		~54 m/w/c  Sltr: 21 m/13 w  5 Fam Apts: ~20 m/w/c	Sltr: 3 mos  Apts: 18 mos	68 m/w  Rooming houses: 25 m/9 w  19 Apts: 34 m/w (mostly m)	Usually at capacity  Maintains a waiting list	Case mgmt	Homeless individuals.  Supp Apts (Mawney St.) Formerly incarcerated get priority, but this may end with expiration of SVORI funds.  No blanket restrictions, but screening, indiv assessment and sobriety required.  <b>~42 Trans Beds; 68 Supp Beds</b>

Program Site	Total Beds	Emergency Shelter Beds	Trans Housing Progs		Supp Beds	Turnover	Prog	Target Population, Restrictions and Comments
Location			Beds	Length				Reasonably Acc to Formerly Incarcerated?
<b>Crossroads Rhode Island</b>  Family Trans Prog: scattered throughout Providence  Supp Housing: Upper South Providence	~226	-----	~50 m/w/c  18 two bdrm fam apts	2 yrs	176 m/w  Apts: 152 m/24 w	Fam trans always at capacity with long waiting list  For supp. w waiting list closed; 35 m on waiting list	Case Mgmt	Fam trans prog: For fams with one c or two c of the same gender.  No blanket restrictions, but thorough screening.  For supp housing: Homeless, and able to prove it.  No sex offenders; no violent offenders; no indivs with a "long drug history".  ~27 Trans Beds
<b>Interim House</b>  East Side	~18	-----	~21 m/w/c  6 fam apts	6-8 wks	-----	Usually at capacity  Serves roughly 60 fams (205 indivs)/yr	Case mgmt	Homeless fams with c.  No blanket restrictions, but screening required.  Some institutional caution of "shelter hoppers."  ~9 Trans Beds
<b>McAuley Village/ McAuley Community House</b>  Village: Elmwood  Community House: Washington Park	~120	-----	~114 w/c  McAuley Village: 23 single parent fam apts	2 yrs	6 m/w  McAuley Community House: 3 m/ 3 w	Usually at capacity  Waiting time: 6 mos-1 yr	Case mgmt	Village: Single mother fams committed to working on their goals. M not barred from village, but few have ever lived there.  House: Homeless single indivs.  No blanket restrictions, but screening required, and serious violent offenders may have a hard time.  23 Trans Beds; 6 Supp Beds

64378-124

Program Site	Total Beds	Legacy Shelter Beds	Trans Housing Program		Supp. Beds	Intervener	Prog.	Target Population, Restrictions and Comments
Location			Beds	Length				Reasonably Acc to Formerly Incarcerated?
Nickerson House Gateway to Independence Olneyville	~59	-----	18 m/w (mostly m)	No limit	~36 m/w/c 20 apts (many set aside for fams); ~31 m/w/c Boarding House: 5 m	Usually at capacity  Little turnover, even in trans housing	Case mgmt	Homeless veterans who were honorably discharged.  No sex offenders; no blanket restrictions on violent offenders, but as a rule of thumb, charges must be 5 yrs old.  Screening and 30 days sobriety required.  Not Reasonably Acc
Rainbow House Upper South Providence	18	-----	18 m/w ~16 m/~2 w	No limit, but tend to leave after 2 yrs	-----	Usually at capacity	Sober trans housing	Recovered/recovering substance abusers.  No BCL, but residents vote; may consider violent crime detrimental and favor indivs who had drug treat.  18 Trans Beds
Shelter Services Tanner House Upper South Providence	10	-----	10 m/w 5 m/5 w	2 yr limit; most don't stay that long	-----	Frequent openings	Highly structured cooperative living	No blanket restrictions, but thorough screening.  10 Trans Beds
Sojourner House Site location conf; offices in Smith Hill	~12	-----	~12 w/c 3 rooms for w and their c	No limit; can stay "as long as you're working toward your goals"; most stay 3-6 mos	-----	Always at capacity  Receive far more inquiries than able to shelter	Case mgmt	W and their c in danger of domestic violence.  No blanket restrictions, but screening.  Not Reasonably Acc

Year	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100
1980	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100

Program Site	Total Beds	Emergency Shelter Beds	Trans Housing Progs		Supp Beds	Turnover	Prog	Comments
			Beds	Length				
<b>Overall Totals</b>	~1009 (+88)	~180 (+88)	~379	-----	~450	Generally low	-----	Totals for supp housing exclude units outside of Providence.
<b>Reasonably Accessible to Recently Released Prisoners</b>	~400 (+88)	~180 (+88)	~141 ~67 for parents living with their c ~74 for indivs	-----	~74 for indivs 0 for indivs with their c 34 for the recently released	Generally low	-----	
<b>Public Institutions</b>								
<b>RI Department of Corrections<sup>5</sup></b>	3624; 3382 m/ 242 w					~3500 indivs through the system every yr. ~1200 return to Prov.		Indivs convicted of a crime and sentenced to incarceration; indivs awaiting trial
<b>Providence Housing Authority<sup>6</sup></b>	>5700 in Public Housing >2500 fams in Section 8				Some supp services, especially in elderly and disabled housing	Low; See Chapter 2 for more information on wait for public housing.		6 family developments 7 elderly/disabled high rises 246 scattered site homes ~2000 Section 8 Vouchers <b>Highly Restrictive</b> ; see Chapter 2 for details

<sup>5</sup> "Transitional" refers to the transition from homelessness to stable living. Most of these programs have a time limit and a very particular timeline for their programming.

<sup>6</sup> "Supportive" refers to permanent supportive housing, low-income housing with consistent case management.

<sup>7</sup> No programs had comprehensive turnover data; most simply gave us their best estimate. All housing providers reported that turnover is extremely low in permanent supportive housing.

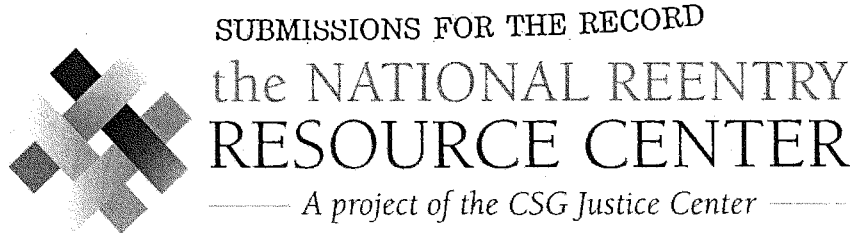
<sup>8</sup> Welcome Arnold, although in Cranston, has been included as a housing resource for the city of Providence because clients and providers report that many individuals who spend time there are actually from Providence; many go directly from prison to Welcome Arnold.

<sup>9</sup> Harrington Hall, although in Cranston, is the overflow emergency shelter for Providence.

<sup>10</sup> Rhode Island Department of Corrections, *Annual Report 2004*, (Planning and Research Unit: Pastore Government Center, Cranston, RI), p. 6. These figures include some prisoners from other states being held in RI. Accessed at: <http://www.doc.state.ri.us/pdf/2004/2004AnnualReport.pdf>.

<sup>11</sup> Providence Housing Authority, "About PHA." Accessed at: <http://www.pha-providence.com/about.html>.





Statement by

Le'Ann Duran

Director, National Reentry Resource Center

A project of the Council of State Governments Justice Center

With funding provided by the U.S. Department of Justice Bureau of Justice Assistance

Hearing on

**Second Chance Act: Strengthening Safe and Effective Community Reentry**

July 21, 2010

Judiciary Committee

U.S. Senate

Thank you Chairman Leahy, Ranking Member Sessions, and members of the Committee for your efforts to highlight and address the extraordinary challenges to public safety presented by the ever increasing numbers of people released from prison and jail and for holding this hearing on the Second Chance Act. This legislation is a necessary first step in addressing recidivism rates nationwide. It is also the foundation to build on as criminal justice agencies and communities struggle to find more effective strategies to keep neighborhoods safe, promote public safety, and reduce victimization all while using resources more efficiently.

My name is Le'Ann Duran. I am the Director of the National Reentry Resource Center, a project of the Council of State Governments Justice Center. Prior to accepting this position, I was the administrator of the Office of Offender Reentry for the Michigan Department of Corrections where I helped design and implement the Michigan Prisoner Reentry Initiative (MPRI). You may be familiar with the incredible gains Michigan has made through its reentry effort in effectively reducing its costly recidivism rates by improving the long-term outcomes of parolees. The improved outcomes of returning citizens allowed the state to reduce its prison population by approximately 12% (6,500 individuals) and close 20 corrections facilities, which saved an estimated \$900 million.

Having been a practitioner working in a state that has had much success in reducing recidivism, I am hopeful that other jurisdictions will be able to see similar improvements to public safety. I am also keenly aware, however, that bringing about change of this magnitude is an extraordinary challenge. In my new role with the National Reentry Resource Center, a project of the Council of State Governments Justice Center, we have the important job of supporting states, local governments, and community and faith-based organizations as they design and implement reentry initiatives.

Following a highly competitive process, the Bureau of Justice Assistance, a division of the Office of Justice Programs in the U.S. Department of Justice, awarded the contract for the National Reentry Resource Center to the Council of State Governments Justice Center. The CSG Justice Center, using data-driven, bipartisan, consensus-based strategies, has emerged as one of the country's leaders in shaping smart corrections policy, serving policymakers and practitioners at the local and state level from all three branches of government. I am honored to be part of this impressive team.

I also wanted to thank the Bureau of Justice Assistance and the Office of Juvenile Justice and Delinquency Prevention for their commitment to seeing evidence-based reentry strategies take root around the country. Without their leadership, realizing the goals outlined in the Second Chance Act would not be possible.

#### **The Problem**

---

The numbers of people being released from prisons and jails is growing steadily in this country. In 2000, about 600,000 people were released from prison growing to more than 680,000 people in 2008.<sup>1</sup> Between 1990 and 2004, the jail population increased from

---

<sup>1</sup> William J. Sabol, Heather C. West, and Matthew Cooper, *Prisoners in 2008*, NCJ 221944 (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2009)

approximately 400,000 people to just over 700,000.<sup>2</sup> Unfortunately, there has not been a corresponding increase in success rates for people released from prison: In a study of 15 states, more than two-thirds of state prisoners released in 1994 were re-arrested and more than half returned to prison within three years of their release.<sup>3</sup>

#### **Current state of the field**

In the last decade, innumerable government officials and community leaders have emerged seeking to reduce the number of crimes committed by the record numbers of people released from prisons, jails, and juvenile facilities. What was once the goal of a relatively small number of corrections managers, jail administrators, and scattered service providers has recently become a national priority, resulting in the exponential growth of people, organizations, and government agencies interested in helping people who have been incarcerated become law-abiding and contributing members of families and communities. The Second Chance Act has played a significant role in this growth in reentry programs and priorities nationwide.

Government officials and community leaders recognize that people released into the community have significant and diverse needs. Halting the cycle of criminal behavior in youth, which is often the antecedent to adult criminal behavior, for example, requires strategies and programs distinct from those designed for adults. At the same time, the level of sophistication in the reentry field varies considerably. Some organizations understand effective practice and have retooled staff development and training efforts, modified policies, and invested in community-based interventions; however, most are still in the early stages of understanding and implementing effective reentry strategies. Some specialize in narrow focus areas, such as literacy or services for HIV, while others try to provide a comprehensive range of services. Some have received local, state, and/or federal funding; others operate solely on a shoestring budget of contributions and volunteer resources.

Yet these policymakers and practitioners share a common struggle: they must meet the needs of people returning from prisons, jails, and juvenile detention facilities often without immediate access to data-driven strategies, evidence-based practices, models for oversight and accountability, and other methods for efficiently and effectively carrying out their efforts.

The Second Chance Act has provided useful guidance about the key elements of a comprehensive, effective reentry effort and much-needed resources to support implementation. It has also elevated the issue of reentry nationwide and helped to greatly increase the number of jurisdictions that are working on reentry, which when done right, will increase public safety and prevent future victimization.

#### **Introduction to the National Reentry Resource Center**

---

The National Reentry Resource Center (NRRC) provides education, training, and technical assistance to states, tribes, territories, local governments, service providers, nonprofit organizations, and corrections institutions working on prisoner reentry. The NRRC is operated

<sup>2</sup> Paige M. Harrison and Allen J. Beck, *Prison and Jail Inmates at Midyear 2004*, NCJ208801, (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2005).

<sup>3</sup> Patrick A. Langan and David J. Levin, *Recidivism of Prisoners Released in 1994*, NCJ193427, (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 2002).

by the Council of State Governments (CSG) Justice Center, with support from the Bureau of Justice Assistance, U.S. Department of Justice, the Annie E. Casey Foundation, the Public Welfare Foundation, and the Open Society Institute. It was established by Congress through the Second Chance Act.

### **Background**

Signed into law on April 9, 2008, the Second Chance Act (Public Law 110-199) was designed to improve outcomes for people returning to communities from prisons and jails. This first-of-its-kind legislation authorizes federal grants to government agencies and nonprofit organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victims support, and other services that can help reduce recidivism.

By establishing a national reentry resource center, Congress and the Bureau of Justice Assistance (BJA) have made certain that the needs of anyone working in the area of reentry are met. They are effectively buttressing the government agencies and community-based organizations receiving federal funds to ensure the most effective use of those investments. They are also ensuring that the rest of the reentry field is progressing and maturing.

Before the enactment of the Second Chance Act and the subsequent launch of the NRRC in October 2009, government officials and community leaders, under pressure to launch and administer a reentry program, sought help wherever they could find it. Surfing the Web, they downloaded stacks of tools and guides, but were unsure which ones were credible or most relevant.<sup>4</sup> Research was similarly mystifying. Nothing succinctly reviewed what the evidence said are the essential elements of any reentry initiative, and it was similarly unclear who was setting a research agenda to address gaps in the knowledge base. The field was missing one place to go where reliable information was compiled, developed, and easily accessible as well as a single place to connect with an expert to navigate this sea of information and be linked to a peer who could share valuable experiences.

### **NRRC Goals**

The NRRC was created to be a one-stop resource for the field. Since opening its doors in October 2009, the NRRC has helped many individuals, agencies, and organizations, who have typically struggled to implement effective practices with scarce funding in order to better address community safety.

Reentry efforts must start with a strong program design that clearly describes who will be targeted for intervention and outlines the services and supervision appropriate for the target population. In order to create an effective program design, first, those involved in reentry must knit together a joint venture among state, county, and city justice and human services agencies that often have distinct missions—with varying levels of commitment to serving people involved in the justice system. Second, they must agree on how the reentry effort will target resources precisely and scientifically by collecting and analyzing data to identify a subset of people released from prison or jail most likely to reoffend. Third, they must determine the specific service packages and supervision strategies that are tailored to this target population and

<sup>4</sup> Even the *Report of the Reentry Policy Council*—a seminal publication with hundreds of recommendations from more than 75 national experts—can be overwhelming, especially to someone just starting a program.

most likely to change those behaviors that can lead to reincarceration. Fourth, to sustain the initiative, reentry program administrators must demonstrate how many people they served, what those program participants received, and what difference it made.

Guided by these challenges, the NRRC has brought together the most experienced reentry practitioners and researchers to inform the tools and assistance provided by the NRRC.

#### **NRRC Structure**

A Steering Committee includes several national organizations who have partnered together to inform the technical assistance approach provided by the NRRC. In addition to the CSG Justice Center, the Steering Committee includes the Urban Institute, Association of State Correctional Administrators, American Probation and Parole Association, and Shay Bilchik, Center for Juvenile Justice Reform at Georgetown University.

The NRRC is also a great example of a public/private partnership. In addition to the support provided by the Bureau of Justice Assistance, the CSG Justice Center has worked to bring private foundations into the partnership. Foundations like the Public Welfare Foundation, the Annie E. Casey Foundation, and the Open Society Institute have been tremendous allies in the collaboration to further advance the goals outlined in the Second Chance Act.

The NRRC is grounded in a strong commitment to collaboration. In the years prior to the existence of the NRRC, the CSG Justice Center pulled together hundreds of stakeholders to weave together the best thinkers and the most promising practitioners to inform each other's work. This history of partnership and collaboration continued after the Justice Center was awarded the grant to manage the NRRC. People released from prison or jail often need services and supports, such as housing, employment, mental health, best delivered by organizations that operate outside the criminal justice system. To convene these key stakeholders, tap their expertise, and demonstrate the type of collaboration essential to a successful reentry initiative, the NRRC established ten committees, and contracted with nationally recognized leaders to chair each of them.

<b>Advisory Committee</b>	<b>Description</b>	<b>Chair(s)</b>
Communities & Families	<i>Focuses on the challenges faced by individuals who have been incarcerated when they return to their families and communities, as well as the challenges faced by families and communities affected by incarceration</i>	Vera Institute of Justice
Employment & Education	<i>Focuses on improving educational and employment outcomes for individuals returning from prison and jail</i>	Safer Foundation Center for Employment Opportunities (CEO) Prisoner Reentry Institute at John Jay College
Behavioral Health	<i>Focuses on the health, mental health, and substance use treatment needs of individuals returning from prison and</i>	Brown University Medical School University of South Florida, de la

	<i>jail</i>	Parte Florida Mental Health Institute
Housing	<i>Focuses on the housing challenges faced by individuals who have been incarcerated and their families</i>	Carol Wilkins, former Director of Corporation for Supportive Housing
Juvenile Justice	<i>Focuses on the particular challenges youth face as they return from correctional facilities and out-of-home placement</i>	Georgetown University, Center for Juvenile Justice Reform
Tribal Affairs	<i>Focuses on the particular challenges of reentry in tribal communities</i>	American Indian Development Associates
Local Government	<i>Focuses on government agencies working to improve reentry at the city and county level</i>	National Association of Counties (NACo)
Victims	<i>Focuses on integrating victims services and victim advocacy in the reentry process</i>	California Coalition Against Sexual Assault (CALCASA)
Pre/Post Release Supervision	<i>Focuses on improving pre-release planning and post-release supervision to improve reentry outcomes</i>	American Probation and Parole Association (APPA)

Each committee is developing a series of practitioner-friendly tools including a compendium of dozens of reentry-related Frequently Asked Questions, policy and practice briefs, best practice at-a-glance guides, and webinars. These resources are described in more detail in the “Tools for the Field” section below.

#### SCA Grantee Overview

The Second Chance Act grant programs have been incredibly popular. In fiscal year 2009, the first year that funding was available, 955 applicants applied for SCA funding. The reentry field enthusiastically responded to the opportunity to apply for federal funding to support state, local, and community-based reentry initiatives. Of the 955 applications, 67 grantees were funded in 2009, spanning 31 states. This demand establishes the Second Chance Act as one of the most competitive justice programs, with only a seven (7%) percent funding rate in the first year. Based on the volume of phone calls field by the NRRC, demand for continued and expanded funding in FY2010 is likely to grow.

Two program types were funded in fiscal year 2010: demonstration projects and mentor programs.

- Section 101 of the Second Chance Act authorizes demonstration projects grants to state, local, and tribal governments interested in advancing reentry initiatives. Eleven percent (11%) of the applications received for demonstration grants were awarded funding.
- Section 211 of the Second Chance Act authorizes mentor programs grants to nonprofit organizations to advance their prosocial support or case management efforts.

Approximately 769 applications were received in 2009 and 47 adult and juvenile mentor projects - or about six percent (6%) of the applications received - were awarded funding.

FY2009 SCA Grant Program Application Results			
FY09 Grant Program	Total applications received	Total grants awarded	Total amount awarded
Adult Demonstration (101)	119	15	\$7,732,726
Adult Mentoring (211)	507	36	\$10,000,000
Juvenile Demonstration (101)	61	5	\$3,660,172
Juvenile Mentoring (211)	262	11	\$4,707,524 <sup>5</sup>
Reentry Resource Center	6	1	\$2,200,000
<b>Total</b>	<b>955</b>	<b>68</b>	<b>\$28,300,422</b>

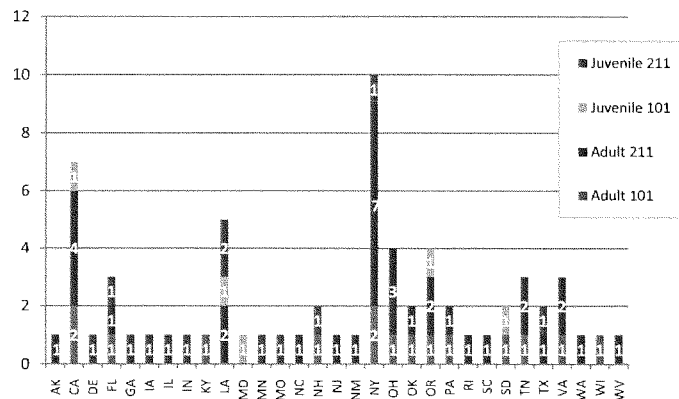
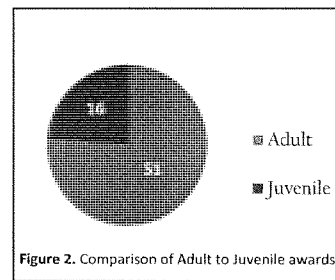
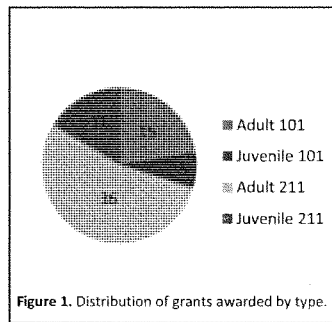
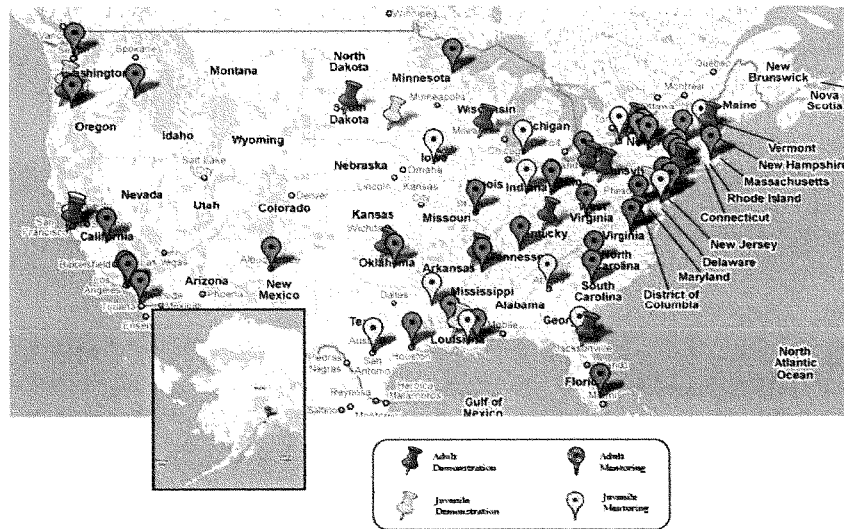


Figure 3. Distribution of grants across state, by program type.

<sup>5</sup> Congress appropriated \$25 million for the Second Chance Act grant programs in fiscal year 2009, but the Office of Juvenile Justice and Delinquency Prevention supplemented the available funds to provide grants for 11 juvenile mentoring programs.

## 2009 Second Chance Act Grantees





## 2009 Demonstration Grantees

Demonstration grants were awarded to both adult and juvenile-focused projects. The adult projects focus on either jail reentry or prison reentry and most grantees are delivering key services based on an individual assessment of risk and need. Nine grantees are units of local governments and six grantees are state departments of corrections. In the first nine months of their grant award, adult demonstration grantees have focused on strengthening their collaborative partnerships with other agencies engaged in their reentry projects, hiring grant-funded staff, defining the scope of work for contractors, and re-engineering facility operations to ensure the target population is in-place and ready to participate in their projects.

Most often, adult demonstration grantees have requested assistance on designing case management operations, improving their reentry strategic plan, and responding to the performance measures required by BJA. In addition to the Advisory Committees, the NRRC has partnered with jail and prison reentry experts from the Criminal Justice Institute and Northpointe Institute for Public Management to deliver targeted assistance, customized to address individual grantee needs.

The criminal histories of many adults involved in the criminal justice system traces back to their youth. The primary objective of the juvenile justice grantees is to improve youth-specific interventions during these early years by employing an approach that requires the use of an ecological model, which focuses on peers, schools, and families. In the first cohort of SCA demonstration grants, five focus on youth involved in the juvenile justice system. Two grantees target high-risk youth. Another two grantees are using a “wrap-around” model with a variety of services and supports available to youth participating in their programs, and one focuses exclusively on youth with substance abuse disorders.

Most commonly, the demonstration grantees focused on youth are requesting assistance to help better integrate youth intervention across many complex government agencies. They also seek guidance on how to implement evidence-based practices. Building on the strong history of research supporting youth-specific interventions and working closely with the Office of Juvenile Justice Delinquency and Prevention, the NRRC has partnered with Shay Bilchik, Director of the Center for Juvenile Justice Reform at Georgetown University and David Altschuler, Professor at Johns Hopkins University, to inform the technical assistance strategy for addressing the unique needs of grantees working with youth.

The chart below describes the type of adult and juvenile projects funded and the target population for their reentry programs.

Grantee	Target Population	Program Focus
Allegheny County, PA	350 male and 40 female adults whose jail sentence is greater than 6 months.	The program primarily focuses on delivering appropriate behavioral health services, and transitional and support services.
City of Baltimore	60 youth identified as high risk for being a victim or perpetrator of violence, and are returning to Baltimore City from the Maryland Department of Juvenile Services.	The program primarily focuses on delivering appropriate enhanced case management to youth from incarceration to supervised-release. Increased monitoring, service referrals, and support for the youth and their families will be provided as well.
City of Memphis	150 participants, 18 years or older, with one felony conviction or past history of failure after release and at least 90 days remaining in sentence with plans to return to one of five identified zip codes, will be selected. Approximately 90% of participants will be male, and the other 10% female.	The funding will support enhanced case management and enhanced community supervision, as well as family reunification services and pre-release preparation services.
City of Richmond, VA	From the jail population, 50 participants aged 30 or older who have express an interest in reuniting or enhancing their role in family life, and have a substance abuse disorder, will be given the opportunity to participate.	Funding will support a wrap-around model that includes substance abuse treatment, education, employment readiness, life skill, victim services, health care, family counseling, and housing services.
Florida Department of Corrections	Approximately 400 men and 100 women, listed as Medium to Highest risk (based on LSI-R scores), age 18 and older, returning to Jacksonville/Duval County will be given the opportunity to participate.	Funding supports employment, housing, substance abuse/mental health treatment and case management services.
Kentucky Department of Corrections	500 individuals in prison or jail, returning to the Louisville-Jefferson County area, who are at highest risk of recidivism, will be selected. Approximately 250 will receive continuing services upon release.	Funding will support medical services, mental health and substance abuse services, educational/vocational training, and case management.
Louisiana Juvenile Justice	200 youth returning to the New Orleans and Acadiana areas from residential placement will be selected.	The program primarily focuses on delivering appropriate case management, mentoring and service referrals.
Marion County, OR	Approximately 200 (~95% male) medium to high risk of adults will be selected. They must exhibit motivation to change and participate in the program, and must be returning to the Salem metropolitan area.	The program primarily focuses on identifying transitional housing, and supplying employment services and treatment/cognitive programming.
Monroe County, NY	50 individuals moderate-to-high-risk individuals returning to northeast Rochester from federal, state, or local facility, whose family members are also willing to participate, will be given the opportunity to participate.	The program primarily focuses on community and family development.
New Hampshire Dept. of Justice	High risk adults in Concord, NH, as identified with validated assessment tools—specifically: parolees and those in transitional housing.	Funding will be used to ensure validated assessments of reentry risks and needs will inform parole planning, substance abuse treatment, mental health treatment, and other reintegration and recovery support services.

<b>NYC Mayor's Office: Harlem Reentry Court</b>	200 high-risk parolees, both men and women, 18 years of age and older returning to East and Central Harlem will be selected.	Funding will support: Pre-Discharge Planning, Judicial Monitoring, Case Management, Assessment, and Coordinated and Aftercare Services.
<b>Oklahoma Department of Corrections</b>	200 high-risk men returning to Oklahoma County (Oklahoma City), who are otherwise excluded from other programs, will be given the opportunity to live in a transitional facility where they can get services.	Substance abuse treatment, education services and employment readiness, as well as cognitive-based treatment are the primary focus of this program.
<b>Oregon Youth Authority</b>	150 paroled youth returning to the 21 targeted counties with ongoing alcohol or drug, or co-occurring needs will be selected.	Funding will support alcohol and drug treatment, mental and physical health services, education/vocational training, employment services, housing needs, living skills training, and other reentry services.
<b>San Francisco Department of Public Health</b>	High risk women sentenced in San Francisco to a state facility, and plan to return to San Francisco following release, will be selected.	Funding will support enhanced case management.
<b>San Fran. Juv. Probation</b>	100 high risk San Francisco youth committed to out-of-home placement will be selected.	The primary focus is to deliver coordinated and comprehensive reentry case planning and aftercare services.
<b>San Mateo County, CA</b>	High-risk individuals sentenced to a minimum of 60 days or more in the San Mateo County Jail, who be released to the County of San Mateo will be selected to participate. Participants must show interest and dedication to be considered.	Funding will support intensive, individual case management; substance abuse treatment; housing support; employment services; family reunification services and health care, and support system-wide program restructuring; and improve information sharing.
<b>South Dakota Department of Corrections</b>	Juvenile Program: 130 Youth released from a juvenile residential facility to the Rapid City area, and youth transitioning to the community through West Farm (near Sioux Falls), will be selected.  Adult Program: 350 high-risk and high-need adults on parole returning to the Sioux Falls and Rapid City areas.	Juvenile Program: Funding will help create transitional centers to address deficiencies in academic skills, workforce skills, independent living skills, pro-social skills, and moral reasoning skills.  Adult Program: Funding will support improved institutional services, address gaps in services provided by community based organizations, improve interagency case management, and incorporate assessed needs into release plans.
<b>Stark County Court of Common Pleas</b>	60 adults with felony convictions and returning from prison to Stark County on judicial release will be given the opportunity to participate.	Funding will support employment services among other transitional and support services.
<b>Wisconsin Department of Corrections</b>	40 people returning to the Green Bay Area and 160 people returning to Milwaukee will be enrolled in "Windows To Work" (WTW). The program serves high risk participants with a 3-yr community supervision sentence upon release; and participants must be able to work and express strong interest in the program.	Funding will be used to help roll-out the WTW program across Wisconsin, where WTW focuses on: employment services; cohesive and comprehensive pre- and post-release case planning activities; post-release community supervision; and community based housing, health, mental health, and family & victim services.

### **Mentor Grantees**

The current cohort of mentor grantees is very diverse. Eleven of the 47 grantees focus on serving youth while the remaining 36 target adults. Some are small organizations with a specific mission to deliver mentoring to people involved in the justice system; others are large non-for-profit service agencies that have added mentor programs to their services for clients. For a good number of grantees, their Second Chance Act grant represents their first federal grant award. The most common service delivered in conjunction with mentor support is case management. Using formal and informal strategies, nonprofit grantees are focused on building the prosocial support network of returning citizens and linking them to the appropriate community-based services.

By far, the greatest demand for funding has come from the nonprofit sector. At the grantee conference held in May 2010, the mentor grantees were enthusiastic and highly motivated. They demonstrated resourcefulness in weaving together their programs and services with other organizations in their communities. The most common requests made to the NRRC come from mentor grantees seeking information on evidence-based practices, managing federal grants, and interfacing with justice systems. Each mentoring grantee included in its application a signed memorandum of understanding from the collaborating corrections agency or jail. Despite this demonstration of collaboration, the nitty-gritty of aligning nonprofit, community-based programs with prison, jail, and juvenile detention center operations is an enormous challenge.

The NRRC is partnering with several highly successful nonprofit organizations, such as the Center for Employment Opportunities and the Safer Foundation, that have extensive experience in building effective programs and collaborating with justice systems to develop strategies to respond to the emerging needs of mentor grantees.

### **FY2010 Programs**

Thanks to the increased appropriation for the Second Chance Act grant programs in fiscal year 2010, BJA issued solicitations for five new SCA grant programs this year, which will provide funding for technology career training programs, family-based substance abuse programs, reentry courts, treatment for people with co-occurring disorders, and evaluating and improving correctional education programs. The NRRC supported potential applicants in responding to these funding opportunities as through webinars and other information for the field. BJA expects to announce the 2010 grant recipients in September and over 150 new grantees are anticipated.

### Tools for the Field

The NRRC and its partners have designed three core strategies to respond to grantee needs as well as the field at-large: create web-based tools for distance learning, facilitate peer-to-peer learning and provide individualized assistance to grantees. The following sections describe the assistance the NRRC has provided to date.

#### Develop web-based tools for distance learning

A top priority for the NRRC is to make knowledge accessible to the field and to help policymakers and practitioners help themselves.

The Justice Center launched the website for the National Reentry Resource Center ([www.nationalreentryresourcecenter.org](http://www.nationalreentryresourcecenter.org)) on October 1, 2009. The purpose of this site is to create a destination, user-friendly hotspot that synthesizes and disseminates knowledge about what works to reduce risk to reduce risk and improve outcomes with adults and youth leaving prisons, jails, and juvenile facilities.

The website is a portal for distance-based technical assistance, making available products such as webcasts, webinars, enhanced podcasts, audio podcasts, and a “what works” research library. Since its launch, over 47,000 discrete individuals have visited the website resulting in over 324,274 page views.

The NRRC has commissioned from each committee the development of a suite of web-based tools, including at-a-glance practice guides, policy and practice briefs, and a comprehensive reentry-focused compendium of frequently asked questions. Each Advisory Committee is currently working on the development of these tools which are scheduled to be released later this year.

#### Create a “What Works” Library

The National Reentry Resource Center is working with the Urban Institute and the John Jay College of Criminal Justice to develop a “what works” library, which provides a user-friendly, one-stop shop for practitioners who want to know what the research says about the design and implementation of evidence-based reentry practices, programs, and policies. By offering an organized, searchable and routinely updated compilation of the most recent peer-reviewed studies, this library will also assist the growing community of scholars developing a

### Tools for the Field

47,000 discrete website viewers

324,274 webpage views

7600 newsletter subscribers

35 spotlight announcements

6 monthly newsletters issued

15 webcasts disseminated

7 webinars conducted

1 enhanced podcast disseminated

37 expert Interviews filmed

9 committee-developed webisodes scheduled

9 At-A-Glance Guides under development

9 Policy in Practice Briefs under development

Reentry FAQ Compendium under development

What Works in Reentry On-line Library under development

[www.nationalreentryresourcecenter.org](http://www.nationalreentryresourcecenter.org)

reentry research agenda. The online library will be easily searchable, updated regularly, and expanded over time.

To date, the project directors at the Urban Institute and the John Jay College of Criminal Justice have conducted a systematic review of the universe of “what works” literature to determine how past “what works” efforts have classified and categorized evaluative research and interventions into levels of effectiveness/strength. They examined 34 meta-analyses and other reports from the criminal justice, education, substance abuse, physical and mental health, and youth/families fields, and reviewed “what works” online databases and websites.

On April 12 and 13, 2010, the Urban Institute convened the What Works in Reentry Roundtable in Washington, DC, to glean “lessons learned” from both the implementation and evaluation of federal reentry initiatives, and to solicit input on the development of the “what works” library. Roundtable participants included federal representatives, practitioners, and academics who have been involved with both the implementation and the evaluation of large-scale national reentry initiatives.

Following the Roundtable, the Urban Institute and John Jay College developed classification criteria and categories of evidential strength, incorporating findings from the systematic review of “what works” literature and input from the roundtable. They also identified over 500 evaluations of reentry interventions for classification and developed procedures for rating and classifying evaluations. In the next year, they will begin to code and tag the evaluations and develop practitioner-friendly one-page overviews of each evaluation. They will also begin to develop an electronic prototype for the “what works” library and hold focus groups to test the utility and user-friendliness of the library. The goal of the project is to launch the online library by fall 2012.

#### **Promote peer-to-peer learning**

People doing the hard work of designing and implementing reentry initiatives must be brought together -- both virtually and in-person -- to share their experiences, learn from one another, motivate each other, and bring cohesion to the fragmented reentry field. The NRRC facilitates these connections, using national and regional training and technical assistance events, webinars, conference calls, and other approaches.

The first national conference for Second Chance Act grantees, “Making Second Chances Work: A Conference for Grantees Committed to Successful Reentry,” took place in Washington, DC on May 25 and 26, 2010. Over 200 individuals representing FY09 Second Chance Act grantees participated. Front-line professionals learned from experts and peers about approaches in housing, employment, mental health and substance abuse treatment, community supervision, and other areas that help support a person’s transition from a correctional facility to the community. Participants accomplished the following:

- 1) learned more about the types of technical assistance available through the National Reentry Resource Center;
- 2) met with other grantees from across the nation, sharing challenges and successes; and
- 3) received training from subject matter experts in relevant issue areas.

As part of its commitment to support not only the grantees but the reentry field generally, the NRRC ensured that key sessions were filmed and made available on the web. These “webisodes” can be downloaded for free on-line at <http://www.nationalreentryresourcecenter.org/making-second-chances-work>.

In addition to the face-to-face opportunity during the conference, the NRRC has also hosted over 65 conference calls with grantees on selected topics in an effort to provide useful information and connect grantees to each other. These calls have provided grantees with a chance to learn more about topics like complying with their grant award, responding to federal reporting requirements, collecting data to report on SCA performance measures, and developing system maps to improve grant-funded program designs. During these calls, grantees learn about the creative solutions being employed around the country and questions addressing the specific issues most important to them.

- 65 Conference Calls on Hot Topics for grantees since October 2009

#### **Provide individualized assistance to grantees.**

The NRRC has assigned a coach to each grantee to provide targeted assistance to each site. Since October 2009, NRRC coaches have fielded hundreds of calls addressing the needs of grantees and other reentry practitioners.

Over 500 coaching calls have been conducted to date, along with nine site visits and another 24 scheduled technical assistance site visits. The following provides a sample of some of the most common inquires.

**Employment.** *How do I design an effective employment program in this economy?*  
**Data Collection.** *How do I collect the data BJA requires for grantee performance measures?*  
**Federal Reporting.** *I need help to meet the federal grant reporting requirements.*  
**Funding.** *Where do I find funding to supplement or sustain my program?*  
**Strategic Planning.** *How do I develop and implement a strategic plan for my reentry effort?*  
**Contracting.** *How do I structure and manage my subcontractors?*  
**Case Management.** *Can you help me design a system-wide case management process?*  
**Collaboration.** *I need help bringing partner organizations to the table.*  
**SCA Applications.** *I want to apply for a SCA grant, how can you help?*

To respond to these questions, the NRRC coaches pull together research and synthesize available information on best practices. If additional assistance is needed, the coach will coordinate expert assistance for follow-up conference calls and on-site visits. Since October 2009, the NRRC team has conducted 9 on-site visits and has 24 visits scheduled in the coming months.

- Conducted over 500 coaching calls.
- Completed 9 site visits.
- Scheduled 24 site visits.

#### **Emerging Common Challenges and Recommendations for Implementation**

As the NRRC team has become familiar with the first cohort of SCA grantees and has connected with the reentry field at-large, several challenges have emerged.

***Assistance with Program Design.*** Grantees and the reentry field generally are becoming increasingly familiar with the emerging body of evidence about strategies that reduce recidivism, but they continue to struggle with translating these concepts into policy and practice.

Although a rich body of evidence is emerging, grantees and the reentry field generally continue to struggle with translating what they have learned about data-driven, effective strategies into policy and practice. In recent years, the message that corrections should shift to implementing evidence-based practices has been heard by many policy makers and practitioners; however, decades of standard practice in corrections, coupled with the political realities of managing these populations, make transformation of these systems complicated. What evidence demonstrates as effective practice often runs counter to the way the justice system has functioned over past decades. For example, individuals who are at a high risk of reoffending are often hard to serve, but yield the greatest results in reductions in recidivism and criminal activity. Supervision, reentry planning and other services must focus on the right populations if we really want to see significant reductions in recidivism.

The Second Chance Act is a strong first step to providing the reentry field with smart guidance about how to build effective criminal justice interventions, but it will take decades to turn the battleship of corrections in a data-driven direction.

Currently, demonstration grantees (Sec. 101) can apply for one large demonstration project grant for up to \$750,000. Our work with grantees and non-grantees has revealed that each jurisdiction is at a different point in the planning or implementing their reentry strategy. As such, many sites interested in Second Chance demonstration grants are at the very beginning of their planning process and would be better served by smaller grants with greater technical assistance, such as a planning grant, to help design their interventions.

These planning grants would allow for early intervention during the critical planning period and only grants with strong program designs and a good likelihood of reducing recidivism would be awarded implementation grants to demonstrate their effectiveness. Allowing pre-implementation planning to happen with grant funds would enable agencies and collaborative reentry teams to take the time necessary to work through the tough decisions on implementing data-driven strategies and system integration issues cited above. Technical assistance would be provided by the NRRC during this period to help strengthen program design. Currently, grants are awarded after the strategic planning process has been completed by applicants, and it is difficult to redirect these efforts once implementation funding has begun.

We recommend that a program structure similar to Drug Court Program or the Mentally Ill Offender Treatment and Crime Reduction program be implemented with a tiered grant structure, including both planning and implementation grants. This would ensure that newer sites that require more planning and early stage work aren't overwhelmed with the expectations and dollars associated with a more advanced grant. Planning grantees can then apply for an implementation grant once the planning phase is complete.

***Measuring Performance.*** Like the rest of the reentry field, grantees struggle with understanding what to measure and how to obtain and routinely track quality information. Most justice agencies have little experience linking program operations to performance measures. Congress, through the Second Chance Act has been very clear: strong performance is expected of SCA grantees. However, corrections agencies must have the staff capacity and ability to



modify and integrate management information systems to reduce inefficient, redundant data entry and make the best use of limited staff time.

Given these challenges, the Bureau of Justice Assistance has taken strong steps to improve grantees' ability to respond to the required performance measures. BJA has developed a grantee performance measurement tool that helps clarify what information should be tracked, and they have asked the NRRC to conduct additional site visits and work with grantees to improve their data collection operations.

Lack of data collection capacity, limited information managing infrastructure, and nascent knowledge on how to effectively measure performance also limits the type of evaluative research that can be conducted within the reentry field. The SCA provision requiring the National Institute of Justice and the Bureau of Justice Statistics to conduct research on reentry issues was enthusiastically embraced by practitioners, policymakers, and researchers alike; however, we recommend restructuring the research section during reauthorization to provide more capacity and performance measurement assistance to grantees as well as adding new research areas.

While there is no dispute that more credible research on the effectiveness of reentry initiatives must be conducted, these research efforts must account for capacity within the field. Until this investment is made, current grantees will continue to need a tremendous amount of technical assistance and support to understand how to change their operations to streamline data collection; there is no quick solution to the need to increase performance measurement capacity.

***Reducing recidivism.*** The Second Chance Act sets appropriately high expectations for sites that receive federal funding to reduce recidivism. Grantees are keenly aware that they are under significant scrutiny to demonstrate positive results quickly. Currently, grantees are in the process of gathering data to submit for their first required performance measurement report. It is anticipated that they will be serving additional numbers of clients for the remainder of their grant period.

Because SCA programs are new programs, the first cohort of grantees has demonstrated many lessons that can be applied to future cohorts of grantees. Namely, while significant reductions of recidivism remain the goal of every SCA grantee, large reductions are not likely in the first year of implementation. As described above, flawed program designs, insufficient systems to collect and analyze program data, deep budget cuts, and imminent changes in state and local leadership across the US make dramatic reductions in recidivism in a very short period of time challenging. As grantees learn through their first year of implementation, make improvements to their program design, enhance the efficacy of their implementation efforts, and act on the trends revealed from the data they collect, increasing numbers of program participants will receive the targeted interventions needed to support prosocial behavior change and ultimately result in fewer crimes. But until grantees have an opportunity to try new policies, programs, and practices, and learn from these early efforts, reductions in recidivism are likely to be modest.

Nevertheless, the leadership Congress has shown by authorizing the Second Chance Act and providing funding for its implementation will permanently alter the trajectory the field and over time make a tremendous difference in the likelihood government agencies and communities

will be able to implement more effective practices and protect their citizens. Before the Second Chance Act, the justice field did not share a common definition of recidivism. By building a common measure for recidivism, comparing outcomes of different approaches to reentry will be easier to measure and will increase the likelihood that truly effective programs are replicated in the future.

We also recommend that Congress consider adding flexibility to the award length. By expanding the length of the demonstration awards beyond 12 months, grantees will have more time to demonstrate their effectiveness and have additional opportunities to receive technical assistance and support in implementing their initiatives. New grantees need between two to four months to finalize the grant details and have their budgets cleared, which makes the current 12 month grant period unrealistic to achieve the project goals. Flexibility will improve the ability for grantees to achieve desired results.

### **Conclusion**

The enactment of the Second Chance Act was a monumental step in changing how state, local government and community-based organizations address prisoner reentry. While still very early in the process, the program is thriving -- both in the immense demand for grants, the establishment of a resource center for the field, and early accomplishments by the first class of grantees.

I would like to thank the Chairman and the Members of the Committee for allowing me this opportunity to provide an update on the status of Second Chance grantees and the work of the National Reentry Resource Center.

**Senate Judiciary Committee Hearing on  
“The Second Chance Act: Strengthening Safe and Effective Community Reentry”  
Wednesday, July 21, 2010**

**Statement of U.S. Senator Russell D. Feingold**

Mr. Chairman. Thank you for holding this important hearing. Research by the Department of Justice indicates that more than 60% of prison inmates will be rearrested for a felony or serious misdemeanor within three years of their release. In 2008, Congress attempted to address this problem and passed landmark bipartisan legislation called the Second Chance Act. This common sense bill recognized that it is in everyone’s interest to ensure that incarcerated individuals become productive members of society and do not return to a life of crime. The Second Chance Act authorizes grant programs to create comprehensive, coordinated reentry services to help formerly incarcerated individuals find stable employment and housing, and hence reduce the likelihood that they will reoffend.

In Wisconsin, the Second Chance Act has had a substantial impact in helping formerly incarcerated individuals readjust to life outside of prison. This past October, the Wisconsin Department of Corrections received funding to expand its “Windows to Work” program, which assists inmates by focusing on employment and independent living as they reenter communities in Brown, Manitowoc, Milwaukee and Sheboygan counties.

Like “Windows to Work,” the many programs funded by the Second Chance Act do more than serve transitioning inmates – they also work to protect the residents of our cities and towns by reducing recidivism rates through vocational training, drug treatment, mentoring, and family services. In the long run, lower recidivism rates translate to fewer tax dollars spent on the staggering cost of incarceration. Our nation is struggling to overcome significant budgetary and fiscal hurdles, and that is particularly evident in our nation’s prison system. We currently spend approximately \$60 billion every year on state and federal corrections, and that number continues to climb. This is not sustainable, and we need to be doing more to prevent recidivism and ensure that formerly incarcerated individuals become productive members of society.

In part for these reasons, I have introduced the Democracy Restoration Act, which would restore voting rights to nearly four million disenfranchised Americans who have been released from prison. Voting helps to build both a sense of civic responsibility and a commitment to community – two attributes we must work to encourage in our formerly incarcerated citizens.

Mr. Chairman, I look forward to working with you to ensure that the Second Chance Act continues to receive adequate funding and is reauthorized in the coming years.

Testimony of Howard Husock  
 Vice-President, Manhattan Institute for Policy Research  
 Senate Judiciary Committee  
 July 22, 2010

Good afternoon. I'm Howard Husock, vice-president for policy research at the Manhattan Institute in New York.

The Institute has long believed that we must seek new and effective approaches to our social problems, especially as they affect cities. With that goal in mind, we have helped develop and promote such successful, problem-solving approaches as "broken windows" or zero tolerance policing, the approach which helped reduce crime in New York and many other cities, as well as welfare-to-work, the core of the welfare reform act which has proven so effective in reducing dependency.

More recently, we have turned our attention to the daunting problem addressed in the Second Chance Act, that of successful prisoner re-entry, a goal we understand to be central to the safety of our cities and the restoration of healthy family life in households in which parents, most often fathers, have been incarcerated. This is not a minor problem, not when 700,000 individuals are released from prison annually—and 44 percent are re-arrested within a year, 60 percent within three years.

The Second Chance Act, in other words, addresses what is, without any doubt, a major American social problem.

At the same time, we believe that, in reauthorization, the Act can be significantly improved. I'd like to share with you some reflections on the Institute's experience in helping to establish, fund and operate a re-entry program in cooperation with the City of Newark, New Jersey, whose results, to date—and the results of similar programs—have convinced us that, for such efforts to be successful, they must emphasize employment. We call it rapid attachment to work. Indeed, it is our view that the successor to welfare-to-work should be prison-to-work—and that the Second Chance Act should give priority to those programs and jurisdictions which adopt that approach. We also believe there are aspects of the way the Newark program is funded—particularly its use of matching private dollars—and managed—particularly its emphasis on pay for performance—which can also be useful elements of Second Chance.

The Newark Prisoner Entry Initiative began when, in response to his mention of the prisoner re-entry problem in his 2006 inaugural address, the Manhattan Institute approached Newark Mayor Cory Booker, generally considered a liberal Democrat, I should note, who agreed to work together on a program that emphasized employment. Mayor Booker noted that he was himself regularly approached by newly-released ex-offenders who asked him directly for help in finding a job. Staying out of trouble in the first few weeks after release is crucial—and employment can be the hub around which a non-criminal life can be organized. In Newark today, six agencies compete with each other to place those coming out of prison into jobs, as well as to provide ongoing

mentoring for those already placed. Even in today's difficult economy, they are proving successful. More than half of 1051 program participants seen to date have been placed in jobs with an hourly wage of more than \$9 per hour—in construction, food service, sanitation, supermarkets. After one year, only 8 percent of all participants have been re-arrested. At the same time, crime in Newark—which, historically, has often involved violence between two individuals with criminal records—has been steadily falling. Indeed, in March, for the first time in 40 years, the city went the full month without a murder.

Other re-entry programs which center on work show similar promise. For instance, New York's Ready, Willing and Able program—which includes public service employment such as litter pick-up as part of an 18-month residential program which requires sobriety—was evaluated by Harvard University sociologists Catherine Sirois and Bruce Western. They concluded that “three years after prison release, RWA clients have 30 percent fewer arrests than a comparison group matched by demographics and criminal history. In addition, RWA clients are significantly less likely to be sentenced to jail three years after their release from prison than members of the control group.” Low recidivism rates also characterized the Ready4Work program, a national employment-centered demonstration projected which operated in 17 cities, from 2003 through 2006 and was found to have reduced recidivism by 34 to 50 percent below national averages.

In all these programs, it's worth noting, government funding has been matched by philanthropic dollars. In Newark, a \$2 million Department of Labor grant was matched by an equal amount from local and regional donors—including the Manhattan Institute, which has supported three loaned executives to help administer the program. This sort of match, in our view, builds in accountability—and provides the equivalent of a market test.

There's no accountability without clear results, however—and, in Newark, in keeping with the best current thinking on performance management, we are tracking and comparing the placement results of all the job placement and mentoring service providers—and, by contract, tying compensation to results. Newark convenes regularly “re-entry stat” meetings—and, just as in the corporate world, service providers are regularly informed how they measure up to others around the table. Poor performers are at risk of not getting new customers—and, ultimately, being dropped from the program.

In other words, it's our view that there's an emerging formula for successful re-entry programs—a formula based on work first, performance management and private matching funds. A reauthorized Second Chance Act which gave top priority to demonstration projects which incorporate these approaches could play a key role in influencing the billions in state corrections, parole and probation programs which will continue to be the major institutions involved in this and other criminal justice-related matters.

There is an additional element which the Act could encourage which has yet to be incorporated in re-entry programs—but which is currently a significant barrier to employment. According to the Center for Law and Social Policy, whose former director

Vicki Turetsky now heads the federal Child Support Enforcement Administration, some 55 percent of state prison inmates are parents—and half owe back child support payments. It's a problem that only gets worse when they're in prison; the typical prison parent owes \$10,000 when he goes behind bars—and \$20,000 when he leaves. Because wages can be garnished to pay them, such arrearages are a powerful deterrent to workforce participation. A reauthorized Second Chance Act could, however, could encourage its demonstration programs to use these child support payments constructively—by linking reductions in arrearages to getting and keeping a job, and, with the permission of the other parent involved, playing a role in family life.

America's criminal justice system, including re-entry through parole, has historically, and will continue to be, primarily the province of state government. Current budget deficits leave little room for a federal role. That's why it's especially important for a reauthorized Second Chance Act to support those model programs that can go on to influence re-entry practice generally. The best way to do that is to emphasize and encourage those programs focused on a rapid attachment to work. Welfare to work has been a success. Now it's time for prison-to-work.

Statement of

**The Honorable Patrick Leahy**

United States Senator  
Vermont  
July 21, 2010

---

Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
"The Second Chance Act: Strengthening Safe And Effective Community Reentry"  
July 21, 2010

Today, the Committee considers the important issue of how best to ensure that when people get out of prison, they become productive members of society, rather than returning to a life of crime. Many states are making great strides with innovative prisoner reentry programs, and we will hear about some of those efforts today. In 2008, we passed the Second Chance Act to give Federal, state and local governments additional tools to help inmates more successfully reintegrate into their communities upon release, and we will hear about the impact this important legislation is beginning to have nationwide.

The Senate recognized the value of the Second Chance Act when, after a great deal of work and compromise, the bill was passed unanimously. Next year, the Act will need to be reauthorized, and I hope that we can again work with bipartisanship to extend these important programs. I was pleased to work with Senator Brownback, Senator Specter, and then-Senator Biden to pass the Second Chance Act, and I look forward to hearing about the good work that has come from it. I know Senator Cardin has a strong interest in this area. I would also thank Senator Whitehouse both for his leadership on prison reform and reentry and for helping with today's hearing.

In the past few decades, Congress and the states have passed several new criminal laws creating more and longer sentences for more and more crimes. As a result, this country sends more and more people to prison every year. There are currently more than two million people in jail or prison, and more than 13 million people spend some time in jail or prison each year. Most of these people will at some point return to our communities. What kind of experience inmates have in prison, how we prepare them to rejoin society, and how we integrate them into the broader community when they are released are issues that profoundly affect the communities in which we live.

Even before we passed the Second Chance Act, Vermont and other states were implementing innovative programs to build safer and stronger communities by ensuring that people leaving prison receive the services that help them become productive members of society and keep them from committing additional crimes.



The Second Chance Act builds on this important work by funding collaborations between state and local corrections agencies, nonprofits, educational institutions, service providers, and families to ensure that offenders released into society have the resources and support they need to become contributing members of the community. The bill requires that the programs supported by these grants demonstrate measurable positive results, including a reduction in recidivism. It takes an important step toward the goal of reducing the nationwide recidivism rate of 66 percent and decreasing the annual nationwide \$8.2 billion dollar cost of incarceration.

The Vermont Department of Corrections and many others in Vermont have strongly supported this crucial piece of legislation, which gives me confidence that it is an important step in making our country safer. We are joined today by Commissioner Andrew Pallito from the Vermont Department of Corrections, who will share with us his experience with reentry programs in Vermont. I know that Commissioner Pallito has had great success developing reentry programs and educating the community about their importance, and I look forward to hearing more about his innovative and exciting work in Vermont.

I am also pleased to welcome Le'Ann Duran from the National Reentry Resource Center, and Sol Rodriguez from OpenDoors in Rhode Island. We will hear her thoughts on how Second Chance Act support has strengthened safe and effective community reentry in Rhode Island and nationwide.

As a former prosecutor, I believe strongly in securing tough and appropriate prison sentences for people who break our laws. But it is also important that we do everything we can to ensure that when these people get out of prison, they enter our communities as productive members of society, so we can start to reverse the dangerous cycles of recidivism and violence. The Second Chance Act helps break this cycle.

#####



214 Massachusetts Ave. N.E. Washington, D.C. 20002 (202) 546-4400 [www.heritage.org](http://www.heritage.org)

## CONGRESSIONAL TESTIMONY

Statement of  
David B. Muhlhausen, Ph.D.  
Senior Policy Analyst  
Center for Data Analysis  
The Heritage Foundation

Before the Committee on the Judiciary of the United States Senate

Delivered July 21, 2010

### **“The Second Chance Act: More Evaluations of Effectiveness Needed”**

#### **Introduction**

My name is David Muhlhausen. I am Senior Policy Analyst in the Center for Data Analysis at The Heritage Foundation. I thank Chairman Patrick J. Leahy, Ranking Member Jeff Sessions, and the rest of the committee for the opportunity to testify today on the reauthorization of the Second Chance Act. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

My testimony focuses on the following points:

- More prisoners returning to society means more crime;
- Successful offender reentry is a multifaceted process;
- Recommendations for improving the Second Chance Act; and
- Scientifically rigorous evidence of the effectiveness of prison reentry programs is lacking.

#### **More Ex-Prisoners on the Street, More Crime**

Congress’s desire to weigh in on the recidivism rates of former prisoners is easy to understand. In 2008 alone, over 735,454 state and federal prisoners were released back into society.<sup>1</sup> However, only 52,348 (7.1 percent) of these former prisoners were released from federal prisons, while the other 683,106 (92.9 percent) were released from state prisons.<sup>2</sup>

Releasing criminals back into society increases crime. Former prisoners have high arrest rates after returning to society. A Justice Department Bureau of Justice Statistics study of 272,111 state prisoners released in 1994 found that two-thirds of prisoners are rearrested within three years.<sup>3</sup> After release, these offenders generate:

- Over 744,000 total arrests,
- 2,871 arrests for murder,
- 2,362 arrests for kidnapping,
- 2,444 arrests for rape,
- 3,151 arrests for other sexual assaults,
- 21,245 arrests for robbery, and
- 54,604 arrests for assault.<sup>4</sup>

The highest rearrest rates were for robbers (70.2 percent), burglars (74.0 percent), larcenists (74.6 percent), and motor vehicle thieves (78.8 percent).<sup>5</sup> Prior to their re-imprisonment, these prisoners accounted for 4.1 million arrests, including 550,004 violent crime arrests.<sup>6</sup>

Any reauthorization of the Second Chance Act should fund another Bureau of Justice Statistics study of national prisoner recidivism rates. The results of the last study are 16 years old, so the results may not reflect current recidivism trends.

The high cost that released prisoners impose on society has been empirically demonstrated by Professor Steven Raphael of the University of California, Berkeley and Professor Michael A. Stoll of the University of California, Los Angeles.<sup>7</sup> Professors Raphael and Stoll analyzed the relationship between prisoner releases and state crime rates from 1977 to 1999. Increased prisoner releases were associated with increased violent and property crime rates. A one-person increase in the number of released inmates per 100,000 residents in a state is associated with:

- 0.01 additional murders;
- 0.02 additional rapes;
- 0.18 additional robberies;
- 1.0 additional burglaries; and
- 1.0 additional larceny thefts.<sup>8</sup>

Due to the amount of crime committed by former prisoners, federal, state, and local governments need to operate effective reentry programs. Preventing former prisoners from returning to prison is a worthy goal.

#### **Offender Reentry**

Policymakers on the national, state, and local levels need to understand the complicated nature of the reentry process. The reentry process begins in correctional facilities as inmates prepare for release and continues with their release back to society.

In addition to reentry public policies, other factors that influence successful transition of offenders from prison to community are individual characteristics, family and peer relationships, and community circumstances.<sup>9</sup> Establishing a law-abiding lifestyle after prison involves locating living quarters, obtaining official identification, reconnecting with family, and finding legitimate employment.<sup>10</sup>

The individual characteristics that influence recidivism include demographic characteristics, prison experience, employment history, education level, criminal record, and substance abuse dependence.<sup>11</sup> For example, one long-term longitudinal study of offenders found that attachment to work is associated with reduced recidivism.<sup>12</sup> Unemployed former prisoners and those without high school diplomas are more likely to drop out of reentry programs than those who are employed and have high school diplomas.<sup>13</sup> Also, recidivists tend to have begun their criminal careers at an earlier age and had more serious criminal histories than those who do not recidivate.<sup>14</sup>

Family and peer support is also important to the reentry process. The same long-term longitudinal study also found that marriage was associated with reduced recidivism.<sup>15</sup> Also, former prisoners living with their families are less likely to drop out of reentry programs compared to their counterparts who do not live with their families.<sup>16</sup> However, family conflict can also harm the reentry process, especially in the case of juvenile offenders returning to poor family environments.<sup>17</sup> Just like the family, the influence of peers can influence the reentry process. Association with criminal peers can disrupt positive influences of the family.<sup>18</sup>

Like the family and peer relationships of released offenders, the communities where they settle can provide positive and negative reinforcement. Many prisoners return to neighborhoods characterized by high degrees of social disorganization and crime.<sup>19</sup> Socially disorganized, economically depressed neighborhoods tend to be associated with higher crime rates.<sup>20</sup> Socially disorganized communities regularly lack socialization processes needed to encourage positive behaviors and dissuade negative behaviors.

### **The Second Chance Act**

The Second Chance Act of 2007 expanded the federal government's role in the provision of reentry services by creating grants for states to implement prisoner reentry programs. The Act authorized up to \$330 million for prisoner reentry programs during fiscal years 2009 and 2010. The overwhelming majority of the spending authorization is for the operation of state and local programs.

*Federalism Concerns.* To address the issue of offender recidivism, the national government should limit itself to handling tasks that fall under its constitutional powers and that state and local governments cannot perform by themselves. First, the federal government should operate "evidence-based" reentry programs for offenders formally incarcerated in the federal correctional system. By "evidence-based" programs, I mean programs that have undergone rigorous scientific evaluations and found to be effective.<sup>21</sup> However, programs based on models previously found to be effective still need to undergo rigorous scientific evaluations. Merely, replicating an "evidence-based" program

does not necessarily mean the new program will yield the same results. Second, the federal government should not assume responsibility for funding the routine operations of state and local reentry programs.

The tendency to search for a solution at the national level is misguided and problematic. Offender recidivism is a problem common to all states, but the crimes committed by offenders in the state corrections systems are almost entirely and inherently local in nature and regulated by state criminal law, law enforcement, and courts.

Increasing the national government's involvement in combating the recidivism of state and local prisoners is detrimental to quintessential federal responsibilities. Using federal agencies and grant programs to provide basic reentry services for state and local prisoners that the states themselves could provide is a misuse of federal resources and a distraction from concerns that are truly the province of the federal government.

A problem that is common to all the states, like offender recidivism, creates an avenue for federal action through the sharing of information and research, including the rigorous analysis of information coming from state and local agencies. Whether it is sharing successful policies and effective innovations or analyzing data, the federal government is well situated to perform this function. The promotion of rigorous research assessing the effectiveness of crime prevention programs is a worthy cause.

*Supplement, Not Supplant.* Under the Second Chance Act, the state and local grants for Adult and Juvenile Offender State and Local Reentry Demonstration Projects, New and Innovative Programs to Improve Offender Reentry Services, and Prosecution Drug Treatment Alternative to Prison are intended to supplement, not supplant, state and local funding. Supplanting occurs when federal funds are used to replace local funds, such as when federal funds intended for the expansion of reentry programs are instead used to pay for the operation of current programs or service levels. Supplanting has been a widespread problem in other Department of Justice grant programs.<sup>22</sup> To ascertain the degree to which supplanting occurs with Second Chance Act grants, Congress should instruct the Office of Inspector General and/or the U.S. Government Accountability Office to conduct audits of grantees.

*Not Enough Evaluation.* A major focus of the reauthorization of the Second Chance Act should be gaining objective knowledge about the effectiveness of reentry programs funded by the Act. Reducing recidivism is important, so we need to find out what works.

The Second Chance Act funds a diverse set of programs across the nation. For this reason, the reauthorized version of the Second Chance Act should fund national, multi-site experimental evaluations of the programs that serve former federal and state prisoners. While evaluating small programs operating in a particular state or city is important, these evaluations do not shed light on the overall effectiveness of typical programs funded under the Second Chance Act. Just because a single program is found to be effective in a particular jurisdiction, or for a certain population, does not necessarily mean that the program is effective in other jurisdictions or among different populations.<sup>23</sup>

Several sections of the Second Chance Act could be improved by the inclusion of congressionally mandated experimental evaluations. Grants administered under each of the following sections from the original legislation should undergo multi-site experimental evaluations:

- Adult and Juvenile Offender State and Local Reentry Demonstration Projects (Title I, Section 101);
- Residential Substance Abuse Treatment for State Offenders Program (Title I, Section 102);
- New and Innovative Programs to Improve Offender Reentry Services (Title I, Section 111);
- Prosecution Drug Treatment Alternative to Prison (Title I, Section 112);
- Family-Based Substance Abuse Treatment Grants (Title I, Section 113);
- Technology Careers Training Demonstration Grants (Title I, Section 115);
- Offender Reentry Substance Abuse and Criminal Justice Collaboration Program (Title II, Section 201);
- Mentoring Grants to Nonprofit Organizations (Title II, Section 211); and
- Responsible Reintegration of Offenders (Title II, Section 212).

In addition to state and local grant programs, the Second Chance Act created the Federal Prisoner Reentry Program (Title II, Section 231) for federal prisoners reentering society should be evaluated for effectiveness using a multi-site experimental evaluation design.

*Keys to Successful Evaluation.* There are several actions that Congress can take to ensure that the programs it funds are rigorously evaluated for effectiveness. First and foremost, Congress needs to specifically mandate in the laws it passes the experimental evaluation of the programs it authorizes.

The principal reason for the existence of reentry programs, obviously, is to prevent recidivism. Scientifically rigorous impact evaluations are necessary to determine whether these programs actually produce their intended effects. Clearly, there is little merit in the continuation of programs that fail to ameliorate their targeted social problems.

Estimating the impact of programs cannot be made with 100 percent certainty, but with varying degrees of confidence. Thus, all such impact evaluations face formidable control problems that make successful impact estimates difficult. As a general rule, the more rigorous the research methodology, the more confident we can be of the validity of the evaluation's findings.

Determining the impact of social programs requires comparing the conditions of those who had received assistance with the conditions of an equivalent group that did not experience the intervention. However, evaluations differ by the quality of their methodology to separate the net impact of programs from other factors that may provide the real explanation for differences in outcomes for comparison and intervention groups.

Broadly speaking, there are three types of research designs: experimental designs, quasi-experimental designs, and non-experimental designs.<sup>24</sup> Experimental evaluations that use the random assignment of individuals to the intervention and control groups represent the “gold standard” of evaluation designs. Random assignment helps ensure that the control group is equivalent to the intervention group. Equivalence means that the intervention and control groups have the same composition, predispositions, and experiences.<sup>25</sup> Experimental evaluations are considered to be superior to quasi-experimental and non-experimental evaluations.

Randomized evaluations ensure that pre-program differences between the intervention and control groups do not confound or obscure the true impact of the programs being evaluated. Random assignment allows the evaluator to test for differences between the experimental and control groups that are due to the intervention and not to pre-intervention discrepancies between the groups. By drawing members of the intervention and comparison groups from the same source of eligible participants, these experimental evaluations are superior to other evaluations using weaker designs.<sup>26</sup>

Under quasi-experimental designs, the intervention and comparison groups are formed by a procedure other than random assignment. Quasi-experiments frequently employ methodological and statistical techniques to minimize the differences between intervention and comparison groups that influence the outcomes being measured. This design frequently matches intervention and comparison group members together based on factors thought to influence program impacts.

Similar to quasi-experiments, non-experimental designs use statistical methods to isolate the effects of the intervention by attempting to make the intervention and comparison groups as equivalent as possible. Non-experimental designs often employ multiple regression analysis to isolate the effect of the intervention.

In both quasi-experimental and non-experimental designs, failure to remove the influence of differences that affect program outcomes may mean that the net impact of the intervention may not be actually due to the program, but caused by the underlying differences between the groups. While quasi-experimental and non-experimental designs use sophisticated techniques, experimental evaluations are still considered able to produce more reliable estimates of program effects. There is evidence that in the realm of criminal justice policy that quasi-experimental and non-experimental evaluations are more likely to find favorable intervention effects and less likely to find harmful intervention effects.<sup>27</sup> Given that experimental evaluations produce the most reliable results, Congress should promote the use of experimental evaluations to assess the effectiveness of federal programs.

Second, these experimental evaluations should be large-scale, multi-site experimental evaluations. When Congress creates programs, especially state and local grant programs, the activities funded do not only occur in a single city or town. Federal grants are intended to be spread out across the nation. For this reason, Congress should require that these programs be evaluated using national, multi-site experimental evaluations. While

individual programs funded by federal grants may undergo experimental evaluations, these small-scale, single-site evaluations do not inform policymakers of the general effectiveness of national grant programs. Just because a single program is found to be effective in a particular jurisdiction, or for a certain population, does not necessarily mean that the results are generalizable to the programs operating in other jurisdictions or among different populations.<sup>28</sup>

Third, Congress needs to provide instructions on the types of outcome measures that will be used to assess effectiveness. When assessing the impact of reentry programs, the most important outcome measure is recidivism. Some have questioned the emphasis on recidivism as a measure of effectiveness compared to other measures that assess adjustment or reintegration of former prisoners back into society.<sup>29</sup> While intermediate measures, such as finding employment and housing, are important, these outcomes are not the ultimate goal of reentry programs. If former prisoners continue to commit crimes after going through reentry programs, then the successful effects for intermediate outcomes will still matter little to judging whether the programs are effective. Impact evaluations relying solely on intermediate outcomes tell us little about the effectiveness of reentry programs in promoting public safety. While reentry programs should be assessed on intermediate outcomes, these measures should never serve as substitutes for recidivism outcomes.

Fourth, Congress needs to institute procedures that will encourage government agencies, often possessing entrenched biases against experimental evaluations, to carry out congressionally mandated evaluations. Of the nine prisoner reentry grants created by the Second Chance Act, the Department of Justice is responsible for eight and the Department of Labor is accountable for one (Responsible Reintegration of Offenders).

Simply mandating that an experimental evaluation occur does not necessarily result in the evaluation actually taking place. The Department of Labor has a poor track record for implementing and disseminating experimental evaluations mandated by Congress. For example, the Workforce Investment Act of 1998 mandated a large-scale, multi-site evaluation of the Department of Labor job-training programs. The results of the evaluation were to be finished by September 2005. Despite this mandate and deadline, the Department of Labor under the William J. Clinton and George W. Bush Administrations procrastinated over performing the evaluation.<sup>30</sup> In November 2007, nine years after the passage of the Workforce Investment Act, the Department of Labor finally submitted a request for proposals for the evaluation.<sup>31</sup> According to the U.S. Government Accountability Office, the evaluation will not be completed until June 2015—ten years after its original due date and 17 years after it was mandated by Congress.<sup>32</sup>

While the National Institute of Justice within the Department of Justice has often demonstrated a stronger commitment in conducting evaluations, Congress still needs to take steps to ensure that evaluations are completed in a timely manner. One recommended method is that not later than one year after the reauthorization of the Second Chance Act, and annually thereafter, the Attorney General and Secretary of Labor be required to individually submit a report on the progress that their departments are



making in evaluating the programs authorized under the Second Chance Act to the appropriations and judiciary committees of both chambers of Congress. Thirty days after the report is submitted to Congress, it should be made available on the web site of the Departments of Justice and Labor.

Fifth, congressionally mandated evaluations, upon completion, must be submitted to the appropriations and judiciary committees of both chambers of Congress in a timely manner. Thirty days after the any evaluation is submitted to Congress, the evaluation should be made available on the respective web sites of the Departments of Justice and Labor. Requiring that Congress and the public be informed of evaluation results is important because government agencies are quick to release positive results, but sometimes they are reluctant to release negative results. For example, a cost-benefit analysis of Job Corps that was finalized in 2003 found that the benefits of Job Corps do not outweigh the cost of the program,<sup>33</sup> but the Department of Labor withheld it from the general public until 2006.<sup>34</sup> An evaluation of Head Start that reported underwhelming results has also experienced unusual delays in being released by Department of Health and Human Services.<sup>35</sup> While the evaluations conducted by the National Institute of Justice do not have the same history of delays, Congress still needs to be vigilant in ensuring that evaluation results are disseminated in a timely manner.

#### **Prisoner Reentry Evaluations**

There is considerable debate over the effectiveness of corrections and reentry programs. Some have concluded that several types of programs are effective,<sup>36</sup> while others have cast doubt on the ability of these programs to reduce recidivism.<sup>37</sup> Prisoner reentry programs operated by secular and faith-based organizations offer a wide range of services. However, there are not enough scientifically rigorous evaluations of secular and faith-based prisoner reentry programs to make generalizations about the overall effectiveness of these programs. While I was unable to identify any experimental or rigorous quasi-experimental evaluations of faith-based programs, I did identify five evaluations of secular programs: two used experimental methods, two used quasi-experimental methods, and one used a combination of experimental and quasi-experimental methods.

*CEO Prisoner Reentry Program.*<sup>38</sup> The Center for Employment Opportunities (CEO) Prisoner Reentry Program is an employment-based program that places recently released prisoners immediately in transitional jobs, usually in nonprofit or government agencies. While working their transitional jobs, participants receive assistance in finding permanent, unsubsidized employment.

An experimental evaluation found that CEO Prisoner Reentry Program participants did not have statistically different arrest rates two years after release from prison.<sup>39</sup> After two years, the intervention group had an arrest rate of 37.7 percent, compared to the 41.8 percent arrest rate for the control group—a statistically indistinguishable difference of 4.1 percent.<sup>40</sup> A statistically indistinguishable difference means that the difference between the intervention and control groups cannot be attributed to the program. However, CEO had more success at lowering conviction rates. After two years, the intervention group

had a conviction rate of 30.5 percent, compared to the 38.3 percent conviction rate for the control group—a statistically significant difference of 7.7 percent.<sup>41</sup> This difference in convictions is explained by the fact that the intervention group was less likely to be convicted of misdemeanors and not felonies.

After two years, the intervention group was less likely to be incarcerated in jail or prison. The intervention group had a reincarceration rate of 49.5 percent, compared to the 55.4 percent reincarceration rate for the control group—a statistically significant difference of 5.9 percent.<sup>42</sup>

The program appears to be ineffective at moving participants into unsubsidized employment. During the course of the two-year evaluation, 59.6 percent of intervention participants found unsubsidized employment, compared to 62.8 percent for the control group—a statistically indistinguishable difference of 2.7 percent.<sup>43</sup>

*Washington State Work Release.*<sup>44</sup> During the early 1990s, 218 eligible prisoners were randomly assigned to serve out their sentences or enter work release facilities in Seattle, Washington. Participates were required to be involved in gainful employment or job training while participating in the program. Work release participants were obligated to remain in their work release facilities unless they were engaged in approved work and other activities.

One year after random assignment, work release participants had a recidivism rate of 22 percent compared to the recidivism rate of 30 percent of the non-work release participants.<sup>45</sup> However, this difference of 8 percent was statistically insignificant, meaning that the difference cannot be attributed to participating in the work release program.<sup>46</sup> Further, a cost-effectiveness analysis demonstrated “basically no differences in costs between work releases and inmates completing their full terms in prison.”<sup>47</sup>

*Boston Reentry Initiative.*<sup>48</sup> The Boston Reentry Initiative is an interagency initiative designed to help move violent adult offenders released from jail back to their neighborhoods. Through multiple agencies, BRI uses mentoring, social service assistance, vocational training, and education to help offenders reintegrate into society. Rather than selecting participants most amenable to rehabilitation, BRI officials selected what they considered to be the “highest risk offenders” for treatment.<sup>49</sup>

While the evaluation of BRI did not use an experimental design, the propensity score analysis used in this quasi-experimental evaluation makes this evaluation more scientifically rigorous than most other quasi-experimental designs.<sup>50</sup> Further, BRI’s focus on targeting high-risk offenders may bias the results of the evaluation to understate the program’s ability to reduce recidivism. Compared to the comparison group, BRI participants experienced statistically significant reductions of 30 percent in overall and violent arrest rates.<sup>51</sup>

While the BRI evaluation found positive results, this program and others found to be effective need to be replicated and rigorously evaluated in other settings before

policymakers and academics can conclude that these interventions are effective. In particular, BRI should undergo an experimental evaluation. The criminal justice programs that have been deemed “effective” and serve as “model” programs have often been those implemented under optimal conditions. These programs have been comprised of highly trained professionals operating under ideal conditions. In addition, the conditions under which these programs operate are carefully monitored to make certain that the participants receive the intended level of treatment. In the real world, program conditions are almost always less than optimal.<sup>52</sup>

*Serious and Violent Offender Reentry Initiative.*<sup>53</sup> Created in 2003, the Serious and Violent Offender Reentry Initiative (SVORI) was an interagency reentry pilot program that coordinated the activities of the Departments of Education, Housing and Urban Development, Justice, and Labor. Before and after release, program participants were provided education and training, family services, health services, and other transition services.

Much like the BRI quasi-experimental evaluation, an evaluation of SVORI used a propensity score analysis to estimate the impact of the program on participants. The evaluation assessed the impact of SVORI participation at 12 adult and 4 juvenile sites on official measures of recidivism.

For adult males, participation in a SVORA program did not lead to lower arrest rates three months to 24 months after release, compared to non-participants.<sup>54</sup> Reincarceration rates of adult male participants were statistically indistinguishable from the reincarceration rates of non-participants three months to 24 months after release.<sup>55</sup>

More success was found with adult female SVORI participants. While the rearrest rates of adult females were not different during the first six months after release, participants were less likely to be arrested nine months to 24 months after release.<sup>56</sup> A similar pattern held for reincarceration rates. Reincarceration rates of adult female participants were statistically indistinguishable from the reincarceration rates of non-participants three months to 9 months after release.<sup>57</sup> However, participants had statistically lower reincarceration rates 12 months to 24 months after release.<sup>58</sup>

*Project Greenlight.*<sup>59</sup> Project Greenlight, a short-term, prison-based reentry program operating in New York City, applied cognitive-behavioral skills training to prisoners eight weeks before their release.<sup>60</sup> The program mainly endeavored to increase “post-release outcomes by (1) incorporating an intensive multimodal treatment regimen during incarceration and (2) providing links to families, community-based service providers, and parole officers after release (although there was no actual community follow-up).”<sup>61</sup> The cognitive-behavioral skills training approach used by Project Greenlight is labeled as a “What Works” or “evidence-based” model based on the results of previous research.<sup>62</sup>

An evaluation found that Project Greenlight “did not reduce recidivism and may actually have increased it.”<sup>63</sup> The evaluation used a mixed-design that combined a quasi-experiment design for the first five months of assigning inmates to the program with

random assignment design during the last six months.<sup>64</sup> Project Greenlight participants were compared to a group of inmates that did not receive any pre-release transition services and to a group that received alternative transition services.

Compared to the inmate group that received the alternative transition services, Project Greenlight participants saw their chances of arrest after one year increase by 41 percent.<sup>65</sup> Project Greenlight participants did not have statistically different arrests rates compared to inmates receiving no services.

### **Conclusion**

Policymakers on the national, state, and local levels need to be concerned about prisoner reentry. To address the issue of offender recidivism, the federal government should operate reentry programs for offenders formally incarcerated in the federal correctional system. Further, the federal government should not assume responsibility for funding the routine operations of state and local reentry programs.

Prisoner reentry programs need to be rigorously evaluated to determine their effectiveness at reducing recidivism. I believe the need for more evaluations transcends political party lines. Both Democrats and Republicans should agree on this issue.

Policymakers should not implement prisoner reentry programs because advocates of federal funding believe these programs are effective. There has to be a solid base of scientific knowledge demonstrating that these programs are effective. Thus, Congress needs to do more to ensure that the reentry programs it funds are rigorously evaluated.

\*\*\*\*\*

The Heritage Foundation is a public policy, research, and educational organization operating under Section 501(C)(3). It is privately supported and receives no funds from any government at any level, nor does it perform any government or other contract work.

The Heritage Foundation is the most broadly supported think tank in the United States. During 2009, it had 581,000 individual, foundation, and corporate supporters representing every state in the U.S. Its 2009 income came from the following sources:

Individuals	80%
Foundations	17%
Corporations	3%

The top five corporate givers provided The Heritage Foundation with 1.6% of its 2009 income. The Heritage Foundation's books are audited annually by the national accounting firm of McGladrey & Pullen. A list of major donors is available from The Heritage Foundation upon request.

Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed are their own and do not reflect an institutional position for The Heritage Foundation or its board of trustees.

<sup>1</sup>William J. Sabol, Heather C. West, and Matthew Cooper, "Prisoners in 2008," Bureau of Justice Statistics *Bulletin*, U.S. Department of Justice, Office of Justice Programs, December 2009, Table 3, p. 3, at <http://bjs.ojp.usdoj.gov/content/pub/pdf/p08.pdf> (June 1, 2010).

<sup>2</sup>*Ibid.*

<sup>3</sup>Patrick A. Langan and David J. Levin, "Recidivism of Prisoners Released in 1994," Bureau of Justice Statistics *Special Report*, U.S. Department of Justice, Office of Justice Programs, NCJ-193427, June 2002.

<sup>4</sup>*Ibid.*

<sup>5</sup>*Ibid.*

<sup>6</sup>*Ibid.*

<sup>7</sup>Steven Raphael and Michael A. Stoll, "The Effect of Prison Releases on Regional Crime Rates," in William G. Gales and Janet Rothenberg Pack, eds., *Brookings-Wharton Papers on Urban Affairs* (Washington, D.C.: Brookings Institution Press, 2004), pp. 207–243.

<sup>8</sup>*Ibid.*, Table 6, p. 232.

<sup>9</sup>Christy A. Visher and Jeremy Travis, "Transitions from Prison to Community: Understanding Individual Pathways," *Annual Review of Sociology*, Vol. 29 (2003), pp. 89–113.

<sup>10</sup>*Ibid.*

<sup>11</sup>*Ibid.*

<sup>12</sup>John H. Laub and Robert J. Sampson, *Shared Beginnings, Divergent Lives: Delinquent Boys to Age 70* (Cambridge, Mass.: Harvard University Press, 2003).

<sup>13</sup>Shelley Johnson Listwan, "Reentry for Serious and Violent Offenders: An Analysis of Program Attrition," *Criminal Justice Policy Review*, Vol. 20, No. 2 (June 2009), pp. 154–169.

<sup>14</sup>Edward Zamble and Vernon L. Quinsey, *The Criminal Recidivism Process* (Cambridge: Cambridge University Press, 1997) and Paul Gendreau, Tracy Little, and Claire Goggin, "A Meta-Analysis of Adult Offender Recidivism: What Works?" *Criminology*, Vol. 34, No. 4 (1996), pp. 575–607.

<sup>15</sup>Laub and Sampson, *Shared Beginnings, Divergent Lives*.

<sup>16</sup>Listwan, "Reentry for Serious and Violent Offenders."

<sup>17</sup>David M. Altschuler and Rachel Brash, "Adolescent and Teenage Offenders Confronting the Challenges and Opportunities of Reentry," *Youth Violence and Juvenile Justice*, Vol. 2, No. 1 (January 2004), pp. 72–87.

<sup>18</sup>*Ibid.*

<sup>19</sup>Visher and Travis, "Transitions from Prison to Community: Understanding Individual Pathways."

<sup>20</sup>Robert J. Sampson and W. Byron Groves, "Community Structure and Crime: Testing Social-Disorganization Theory," *The American Journal of Sociology*, Vol. 94, No. 4 (January 1989), pp. 774–802, and Richard Rosenfeld, Steven F. Messner, and Eric P. Baumer, "Social Capital and Homicide," *Social Forces*, Vol. 80, No. 1 (2001), pp. 283–310.

<sup>21</sup>For more on the "evidence-based" policies, see Lawrence W. Sherman, David P. Farrington, Brandon C. Welsh, and Doris Layton MacKenzie, eds., *Evidence-Based Crime Prevention* (London: Routledge, 2002).

<sup>22</sup>For examples, see David B. Muhlhausen and Brian Walsh, "COPS Reform: Why Congress Can't Make the COPS Program Work," Heritage Foundation *Backgrounders* No. 2188, September 26, 2008, at <http://www.heritage.org/Research/Reports/2008/09/COPS-Reform-Why-Congress-Cant-Make-the-COPS-Program-Work>.

<sup>23</sup>Nathan James, "Offender Reentry: Correctional Statistics, Reintegration into the Community, and Recidivism," Congressional Research Service *Report for Congress*, January 5, 2010.

<sup>24</sup>William R. Shadish, Thomas D. Cook, and Donald T. Campbell, *Experimental and Quasi-Experimental Designs for Generalized Causal Inference* (Boston: Houghton Mifflin Company, 2002). A fourth research design is the natural experiment. Natural experiments utilize naturally occurring differences between intervention and comparison groups. The author does not know of any examples of natural experiments used to evaluate delinquency and gang prevention programs; therefore, this design is not covered in this testimony.

<sup>25</sup>Peter H. Rossi, Mark W. Lipsey, and Howard E. Freeman, *Evaluation: A Systematic Approach*, 7th edition (Thousand Oaks, Cal.: SAGE Publications, 2004).

<sup>26</sup>Randomized evaluations ensure that pre-program differences between the intervention and control groups do not confound or obscure the true impact of the programs being evaluated. Random assignment allows the evaluator to test for differences between the experimental and control groups that are due to the intervention and not to pre-intervention discrepancies between the groups. By randomly assigning members of the intervention and control groups from the same source of eligible participants, experimental evaluations are superior to other evaluations using weaker designs.

<sup>27</sup>After conducting a meta-analysis of 308 criminal justice program evaluations, Professor David Weisburd of George Mason University and his colleagues found that weaker evaluation designs are more likely to find favorable intervention effects and less likely to find harmful intervention effects. Professor Weisburd and his colleagues caution that quasi-experimental and non-experimental designs, no matter how well designed, may be incapable of controlling for the factors that make individuals considered agreeable and allocated to the intervention group. See David Weisburd, Cynthia M. Lum, and Anthony Petrosino, "Does Research Design Affect Study Outcomes in Criminal Justice?" *Annals of the American Academy of Political and Social Sciences* No. 578 (November 2001), pp. 50–70.

<sup>28</sup>James, "Offender Reentry."

<sup>29</sup>Visher and Travis, "Transitions from Prison to Community."

<sup>30</sup>David B. Muhlhausen and Paul Kersey, "In the Dark on Job Training: Federal Job-Training Programs Have a Record of Failure," Heritage Foundation *Backgrounders* No. 1774, July 6, 2004, at <http://www.heritage.org/Research/Reports/2004/07/In-the-Dark-on-Job-Training-Federal-Job-Training-Programs-Have-a-Record-of-Failure>.

<sup>31</sup>U.S. Department of Labor, "Requests for Proposals (RFP) 2007," at <http://www.doleta.gov/grants/rfp07.cfm> (July 18, 2010).

<sup>32</sup>George A. Scott, "Workforce Investment Act: Labor Has Made Progress in Addressing Areas of Concern, but More Focus Needed on Understanding What Works and What Doesn't," U.S. Government Accountability Office, February 26, 2009, at <http://www.gao.gov/new.items/d093961.pdf> (July 18, 2010).

<sup>33</sup>Peter Z. Schochet, Sheena McConnell, and John Burghardt, *National Job Corps Study: Findings Using Administrative Earnings Records Data: Final Report* (Princeton, N.J.: Mathematica Policy Research, Inc., October 2003).

<sup>34</sup>David B. Muhlhausen, "Job Corps: A Consistent Record of Failure," Heritage Foundation *WebMemo* No. 1374, February 28, 2007, at <http://www.heritage.org/Research/Reports/2007/02/Job-Corps-A-Consistent-Record-of-Failure>.

<sup>35</sup>Jennifer Marshall, David B. Muhlhausen, Russ Whitehurst, Nicholas Zill, and Debra Viadero, "Is Head Start Helping Children Succeed and Does Anyone Care?" video feed, panel discussion, The Heritage Foundation, March 22, 2010, at <http://www.heritage.org/Events/2010/03/Head-Start> (July 19, 2010).

<sup>36</sup>Steve Aos, Marna Miller, and Elizabeth Drake, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates* (Olympia, Wash.: Washington State Institute for Public Policy, 2006), at <http://www.wsipp.wa.gov/rptfiles/06-10-1201.pdf> (November 2, 2009), and Doris Layton Mackenzie, *What Works in Corrections: Reducing the Criminal Activities of Offenders and Delinquents* (Cambridge: Cambridge University Press, 2006).

<sup>37</sup>David J. Farabee, *Rethinking Rehabilitation: Why Can't We Reform Our Criminals?* (Washington, D.C.: AEI Press, 2005).

<sup>38</sup>Cindy Redcross, Dan Bloom, Gilda Azurdia, Janine Zweig, and Nancy Pindus, *Transitional Jobs for Ex-Prisoners: Implementation, Two-Year Impacts, and Costs of the Center for Employment Opportunities (CEO) Prisoner Reentry Program*, MDRC, August 2009.

<sup>39</sup>*Ibid.*, p. ES-8, Table ES.1.

<sup>40</sup>*Ibid.*

<sup>41</sup>*Ibid.*

<sup>42</sup>*Ibid.*

<sup>43</sup>*Ibid.*, p. 48, Table 4.1.

<sup>44</sup>Susan Turner and Joan Petersilia, "Work Release in Washington: Effects on Recidivism and Corrections Costs," *The Prison Journal*, Vol. 76, No. 2 (1996), pp. 138–164.

<sup>45</sup>*Ibid.*, p. 157.

<sup>46</sup>*Ibid.*

<sup>47</sup>*Ibid.*, p. 160.

<sup>48</sup>Anthony A. Braga, Anne M. Piehl, and David Hureau, "Controlling Violent Offenders Released to the Community: An Evaluation of the Boston Reentry Initiative," *Journal of Research in Crime and Delinquency*, Vol. 46, No. 4 (2009), pp. 411–436.

<sup>49</sup>*Ibid.*, p. 421.

<sup>50</sup>In propensity score analysis, intervention subjects are compared to comparison subjects that have a similar probability of selection into the intervention. For more information, see Paul R. Rosenbaum and Donald B. Rubin, "Reducing Bias in Observational Studies Using Subclassification on the Propensity Score," *Journal of the American Statistical Association*, Vol. 79, No. 387 (September 1984), pp. 516–524, and William R. Shadish, Thomas D. Cook, and Donald T. Campbell, *Experimental and Quasi-Experimental Designs for Generalized Causal Inference* (Boston: Houghton Mifflin Company, 2002).

<sup>51</sup>*Ibid.*, p. 411.

<sup>52</sup>For more information on the problem of replication, see David B. Muhlhausen, "The Youth PROMISE Act: Outside the Scope and Expertise of the Federal Government," testimony before the Subcommittee on Crime, Terrorism, and Homeland Security, Committee on the Judiciary, U.S. House of Representatives, July 15, 2009, at <http://www.heritage.org/Research/Testimony/The-Youth-PROMISE-Act-Outside-the-Scope-and-Expertise-of-the-Federal-Government>, and David B. Muhlhausen, "Prisoner Reentry: A Limited Federal Government Role," testimony before the Subcommittee on Crime and Drugs, Committee on the Judiciary, U.S. Senate, November 5, 2009, at <http://www.heritage.org/Research/Testimony/Prisoner-Reentry-A-Limited-Federal-Government-Role>.

<sup>53</sup>Pamela K. Lattimore and Christy A. Visser, *The Multi-site Evaluation of SVORI: Summary and Synthesis*, December 2009, at [http://www.svori-evaluation.org/%5Cdocuments%5Creports%5CSVORI\\_Summary\\_Synthesis\\_FINAL.pdf](http://www.svori-evaluation.org/%5Cdocuments%5Creports%5CSVORI_Summary_Synthesis_FINAL.pdf) (July 19, 2010).

<sup>54</sup>Lattimore and Visser, *The Multi-site Evaluation of SVORI*, Exhibit 34, p. 86.

<sup>55</sup>*Ibid.*

<sup>56</sup>*Ibid.*, Exhibit 41, p. 92.

<sup>57</sup>*Ibid.*

<sup>58</sup>*Ibid.*

<sup>59</sup>James A. Wilson and Robert C. Davis, "Good Intentions Meet Hard Realities: An Evaluation of the Project Greenlight Reentry Program," *Criminology & Public Policy*, Vol. 5, No. 2 (2006), pp. 303–338.

<sup>60</sup>*Ibid.*

<sup>61</sup>*Ibid.*, p. 307.

<sup>62</sup>Edward E. Rhine, Tina L. Mawhor, and Evalyn C. Parks, "Implementation: The Bane of Effective Correctional Programs," *Criminology & Public Policy*, Vol. 5, No. 2 (2006), p. 347–357.

<sup>63</sup>Christie A. Visser, "Effective Reentry Programs," *Criminology & Public Policy*, Vol. 5, No. 2 (2006), p. 300.

<sup>64</sup>Wilson and Davis, "Good Intentions Meet Hard Realities," p. 311.

<sup>65</sup>*Ibid.*, p. 323.

Testimony of Andrew A. Pallito  
US Senate Judiciary Committee  
Wednesday, July 21, 2010  
Vermont Reentry Practices

**VERMONT DEPARTMENT OF CORRECTIONS**  
**REENTRY PRACTICES**

Mr. Chair and Fellow Members, thank you for the opportunity to speak to this Committee today regarding the issue of offender reentry and for the opportunity to showcase some of the innovative work that we are doing in Vermont.

My name is Andrew Pallito and I am the Commissioner of the Department of Corrections (DOC). Our work in engaging communities as partners in offender reentry has been brought on by an explosive growth in the use of incarceration. In 1990, Vermont had one third of the number of people incarcerated that it has in 2010, representing an increase of a staggering 160%. To manage this growth over the past twenty years, the State has built several new correctional facilities and today, houses roughly one third of our incarcerated offenders in out of state, private contracted prison facilities.

This unprecedented increase has placed an enormous burden on the State's General Fund. The Department of Corrections' annual percentage growth continues to take a larger and larger share of the State's available resources and has outstripped our ability as Vermonters to sustain many other vital programs.

Ironically, this growth has occurred during a period when the census data for Vermont shows a general population growth of only 10%. (The general population of Vermont was 562,758 in 1990 and grew to 621,760 in 2010).

There is good news, however, in that the annual rate of growth recently has slowed. This, I believe has been accomplished by a number of new strategies which affect the number of offenders coming into the system, such as diversion programs, and the manner in which offenders are being released.

Over the past few years, my department has been engaging and educating communities throughout the state about the importance of solid release planning for all offenders, including those with very violent histories. What differentiates Vermont's response to reentry from traditional approaches across the country is the philosophical foundation of restorative justice principles and community involvement. By providing returning offenders with high measures of support and accountability, fostering meaningful, participatory community connections, and leveraging the informal social influence exercised by families and neighbors, we effectively compliment best correctional practices for a more successful reentry process for offenders.



**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Vermont Reentry Practices**  
**Page 2**

The support and accountability derived from these relationships increases offender investment and opportunity. We have seen this with our work with Circles of Support and Accountability, also known as a COSA. A COSA is a group of five or so individuals, who are trained in the need areas of a particular offender, and who in turn hold an offender accountable while assisting and supporting them with the reentry process. COSAs are coordinated by local municipal Community Justice Centers. Vermont has twelve such Community Justice Centers located throughout the state.

Increased citizen participation has resulted in diminishing public resistance towards offender reentry and marginalization of returning offenders. This dramatically improves an offenders potential for success and can achieve a significant reduction in recidivism.

Complimenting the COSA process is the Offender Responsibility Plan, known as the ORP. The ORP is our Case Management System for coordinating, delivering, and tracking the range of treatment and work readiness development services specific to the offender's strengths and needs. It constructs a customized map of stakeholder relationships and available services. The document evolves over time to reflect the offender's progress, including pre-release services such as vocational assessment, housing readiness, benefits eligibility, transition planning and post-release supervision and services, behavioral assessments and therapy, substance abuse treatment, employment, parenting and other family obligations.

The ORP is a *restorative process* that encourages the returning offender to accept responsibility for the harm his or her crime caused. It is a fluid case plan developed by the Department of Correction's facility and field casework staff in collaboration with the offender and all other appropriate parties.

Over the past few years, we have formed critical new partnerships with offender-serving agencies throughout Vermont. This includes the Department of Labor's Vocational Rehabilitation Division, the Social Security Administration, the Veteran's Association, the Judiciary and the Agency Of Human Services' Housing and Economic Benefits Divisions, Office of Child Support and Department of Health. Through Memorandums of Understanding with these agencies, we have enlisted their on-going support in pro-active reentry planning, resulting in valuable utilities such as reentry employment specialists, housing search and retention specialists, electronic benefit cards and personal identification provisions prior to release.

**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Vermont Reentry Practices**  
**Page 3**

Through these initiatives, we have fundamentally changed the reentry service delivery system in Vermont. The ORP case management structure is in place, as is state law and policy to support Restorative Reentry. We have incorporated the leveraging of stakeholder relationships on both an interagency and interpersonal level into our case planning and reentry practices. A NIJ study of Vermont's Reparative Probation Program (which uses the restorative justice principles) has demonstrated that restorative approaches for offenders achieve significantly positive reductions in recidivism (over 23%). The same principles underlie our reentry practices.

Many of the individuals who have reentered with the assistance of a community-based support cite the critical role these services have played in allowing them to get their footing and stay out of prison. Targeted reentry services such as employment and housing assistance have also stemmed directly from our Community Justice Center reentry programs, resulting in a significant number of successful and stable placements across the state. The organizational culture of our own Department has also grown to recognize and appreciate how our work is enhanced through direct citizen involvement in the reentry process. We have *begun* to change the conversation about returning offenders in local communities from "how can we keep them out of our town?" to "how can we make them a part of this community so they won't do harm again and prevent them from entering the corrections system?"

During these difficult fiscal times, the Vermont Legislature has recognized the importance of this work and recently has appropriated funding for these community-based strategies. This funding is not enough to complete this work, however.

Challenges we continue to face are lack of federal funding to support ongoing efforts and compliment the State funding already appropriated, community resistance, public policy issues relative to sex offenders, and the standard barriers to successful reentry (housing and employment chief among them). In addition, we have not been resourced to conduct an empirical, longitudinal study of our reentry programs. So while we have significant anecdotal information from program participants, staff and volunteers to suggest its effectiveness, we do not have the comprehensive data that would support this experience.

Submitted along with my testimony is documentation on two cases of higher level offenders who have been successfully reintegrated into the community using the COSA process. In addition, submitted is an agenda from a community meeting establishing a COSA for a particular offender and an article written in a local Vermont newspaper describing our COSA process.

**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Vermont Reentry Practices**  
**Page 4**

In closing, I want to again thank you for allowing me the opportunity to address this Committee. I want to further thank you for the partnership that we have enjoyed through past grant opportunities which have allowed us to build a foundation for this innovative work.

**Attachments:**

- A.** Circles of Support and Accountability – Case Study #1
- B.** Circles of Support and Accountability – Case Study #2
- C.** Actual Agenda from an Offender’s Reentry Meeting
- D.** Circles of Support and Accountability Article in the Times Argus Newspaper, December 24, 2007
- E.** Program Abstract from the Vermont Department of Corrections 2010 Second Chance Act Grant Application
- F.** Vermont Reentry Practices – Additional Talking Points
- G.** Offender Reentry Plan Template

**Testimony of Andrew A. Pallito  
US Senate Judiciary Committee  
Wednesday, July 21, 2010  
Attachment A  
COSA Case Study #1**

**Submitted by:  
Newport Community Justice Center (NCJC)  
Offender Reentry Narrative**

Keith fell under the category of a serious and violent offender for the crime of "assault and robbery with a weapon". Three months prior to Keith's release the Offender Reentry Plan (ORP) coordinator began meeting with Keith once a week at the Newport Correctional Facility to prepare for reentry. The coordinator recruited and trained a Circle of Support and Accountability (COSA) to surround Keith with community support. Keith's COSA consisted of five people: his mother, father, uncle and two women from the Newport community. Keith was released from the facility in January of 2007. Since Keith's release, the COSA met on a bi-weekly basis. The COSA, which included Keith, dialoged about obstacles to reentry and how they as a team could overcome them. The COSA held game nights, potluck dinners and snowshoeing day trips. All of these events facilitated a tight bond of trust, caring and community within the COSA. Keith and some of the COSA members participated in community sport leagues as well. The COSA understood the importance of linking Keith's reentry into the COSA with his reentry into the greater Newport community. The COSA also helped Keith secure a full-time job with benefits.

At the end of September the COSA celebrated nine months of successful reentry and the end of Keith's probation period. At this meeting Keith, the COSA and the NCJC staff reflected on Keith's past nine months of reentry. Keith shared how scared and overwhelmed he was when he was first released. He was scared of messing up and being sent back. He was scared of being ostracized by the community. He was scared of running into the victim and the victim's family and friends. For the first months of his reentry Keith's fears kept him isolated and indoors. The COSA meetings helped Keith overcome his fears. Participating in the COSA reminded Keith that people in the community other than his family did care about his well-being and that people could see and relate to him beyond his criminal identity.

Keith's family expressed their deep gratitude to the COSA for their continued support. They recognized the great deal of support required by the family of the incarcerated. They spoke about their struggle and pain associated with Keith's incarceration. They acknowledged how having the community to support and hold them was instrumental in allowing them to begin to heal from the ordeal.

The two women community members expressed how much they personally received and learned from the COSA. They shared how the COSA was not simply a support group for Keith but rather a support group for each member. Each COSA member held and supported the next illustrating the true mutuality of the circle meeting.

The NCJC asked the COSA what the NCJC could do to better support the responsible party and community in reentry. All agreed that more reentry resources and more COSA's must be made available for more returning prisoners.

Going forward, Keith and the COSA will continue to meet and support one another.

**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Attachment B**  
**COSA Case Study #2**

**Submitted by:**  
**Newport Community Justice Center (NCJC)**  
**Offender Reentry Narrative**

Ronald is a male Sex Offender case that we took in December, 2005, and will be able to support until mid-January, 2007. The referral was brought to us by the Superintendent of the Newport Probation and Parole office. This particular client has been in the Sex Offender Treatment Program for over seven years. The reasons were lack of participation and full ownership on his part, as well as a lack of understanding, and denial of his issues by his wife.

When we took the case, there had just been a shift in Probation and Parole with a new Manager, and Ron's family also had to move to a new location. This new location had a close neighbor with a young girl in residence. Because of this, Ron was unable to move directly into his home with his family. Furthermore, the young girl and her parents were long time friends of Ron, and Ron's wife was also in denial of the situation at hand.

The Probation and Parole Manager felt that they would really need a Circle of Support and Accountability (COSA) in place, and that the parents of the child next door must also be willing to support the process.

Ron's initial presentation as far as his attitude, and the attitude of his wife, was that they would do anything that Probation and Parole suggested, as they just wanted it all to be over with. The wife was very adamant that it was the fault of the Probation and Parole Office as well as the Resolutions Sex Offender Treatment Program that they were unable to live as a family.

The Circle that the Community Justice Center (CJC) built consisted of area professionals, including a Case Manager at the local prison, all of whom had known Ron for many years, but had not really known the full extent of his offense. Also, Ron's Probation and Parole Case Manager agreed to attend the trainings, both to get an understanding of the program, and to provide information and understanding on the part of the Circle.

Throughout the first few training sessions, the group learned about the offense. This was done by both a full disclosure by the client, and by reading affidavits. Furthermore, the group met with the client's sex offender treatment provider, and learned more about what it meant to be a sex offender, and what to look for to keep everyone safe.

Over the following weeks, the group as a whole, especially Ron's wife, began to change in their own thinking, and what was already a tight group became much closer in their shared knowledge. This was most evident in Ron's wife, as she finally realized the extent of the issues that her husband faced, and how her denial of the situation affected his accountability. She was now ready to learn as much as she could, not to satisfy the officials, but to prepare herself and her family for their new future.

Ron also had many changes in this time period. His participation level had risen dramatically, as well as his comprehension and accountability. With the help of his case manager, his wife, and his Circle, he began to see his own issues in a clearer light, and began truly participating in his treatment. What he once saw as a threat to his life and lifestyle was now looked upon as a lifeline, as he began to trust not only the Sex Offender Treatment Program, but also the provider.

Once these changes in the client, his wife, and his circle were evident, the time had come to slowly move back into his home and life. This enabled a series of safety plans that allowed

him to stay a few days a week to start. Over time, this turned into a fulltime arrangement with the approval of the Probation and Parole Safety Team.

From here, Ron then began writing safety plans for other activities, one of which was for the Dirt Bike racing circuit, in which both of his sons avidly participate. This safety plan was approved. What made this activity particularly important was that the majority of his Circle also participated in these events with their own children. It gave them a chance to work as a team in keeping an eye on Ron, as well as holding him accountable for keeping to his safety plan.

This activity lasted the entire summer and really gave them a chance to work out any "kinks" in their Circle. Although the group had absorbed and learned a lot over the previous months, these activities allowed them to test what they had learned. Furthermore, throughout the summer, Ron was able to share the ups and downs with his treatment provider and this group, in order to get their ideas and to continue his accountability to everyone involved.

What has made this Circle work so well for this core member is having these people finally know the entire truth, and understand the extent of his crimes and still have them stand by him. With that complete honesty, Ron was able to have the confidence to write solid safety plans that truly involved his support members and encompassed everything that he has learned during his seven years of treatment.

Finally, because of everyone's hard work over this last year, Ron has recently completed his almost decade long journey by graduating from the Sex Offender Treatment Program. He is now working with his Circle during this transition, as well as the transition that he will face when he completes the Offender Reentry Program, and the many more transitions he will face in the years to come. Honesty and trust equals confidence and hard work in this Circle.

**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Attachment C**  
**Actual Agenda from an Offender's Reentry Meeting**

**OFFENDER RYAN**  
**REENTRY MEETING**

1. WELCOME 5 min  
The goal for today is to plan together for Ryan's successful return to his community. The plan will be developed to help Ryan be a productive member of the community as well as insuring that the community is safe from further victimization from Ryan. The plan will include programs and activities in which he will participate as well as identifying his support team who will work with him during his reentry. Ryan will be held accountable for the commitments made in this plan.
2. INTRODUCTIONS 5 min  
Around the circle - who you are and why are you here today.
3. REVIEW AGENDA 5 min  
Welcome, Introductions, Goals for the Meeting.  
An overview of Restorative Justice and its application to the Reentry Program.  
Comments from Ryan: What he has learned about himself and his participation in this program.  
Treatment Plan.  
Thoughts from current Probation Officer: Words of advice, Conditions of Release  
Family, Employment, COSA, Support Panel, Wrap Up
4. CONFIDENTIALITY  
We will be sharing a lot of information during the course of this meeting. Please respect the confidentiality of Ryan and his family by using this information appropriately in your work or community connection with him.
5. OVERVIEW OF RESTORATIVE JUSTICE 5 min  
Provide a brief explanation of restorative justice and how it applies to this reentry program.
6. RYAN: 25 min  
Please tell us why you went to jail? What was your crime? What other crimes have you committed?  
How many times have you been sent back to jail on a sanction?  
What are some ways that you break the rules when you're in the community? Why do you have a hard time following rules?  
What are some things that make you feel frustrated when you're in the community?  
When we met with you in jail, you asked for help in learning how to not become violent. Can you describe what kind of help you are looking for?  
You have six months until you complete your sentence. What would like to accomplish during this time?  
What are some things that you like to do that are not illegal or do not involve breaking rules?  
What do you want your life to look like a year from now?  
What kind of father do you want to be for your daughter?  
How do you think you need help to reach these goals?

**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Attachment C**  
**Actual Agenda from an Offender's Reentry Meeting**  
**Page 2**

Who do you think has been affected by your crimes? How do you think they've been affected?

7. COUNSELLOR 15 min

What can you share about Ryan that will be helpful to us as we work with him? What are some of your concerns about Ryan based upon your assessment?  
 How do you think we can address these concerns?  
 What are the next steps in your work with Ryan?

8. PROBATION OFFICER 15 min

How long have you known Ryan? How long have you supervised Ryan?  
 What are some of your concerns about Ryan? What do you think his risks are?  
 What do you like about Ryan? What are some his strengths?  
 What would you like to see Ryan accomplish in the next six months?  
 How do you think you can help Ryan meet some of his goals?  
 What are items of CR that we should be aware of?  
 What are your thoughts on programs that can help Ryan learn not to be violent?

9. FAMILY 15 min

How have you been affected by Ryan's crimes and violence?  
 What are your concerns about Ryan's future?  
 What do you think we need to know about Ryan?  
 Where would you like to see Ryan accomplish in the next six months?  
 What are your hopes for Ryan?  
 How can you help Ryan accomplish his goals?  
 How do you think we can help Ryan to accomplish his goals?

10. DEPARTMENT OF LABOR 10 min

What services can you provide for Ryan? What does Ryan need to do to receive them?

11. CIRCLE OF SUPPORT AND ACCOUNTABILITY TEAM 10 min

What are you hoping for in building your relationship with Ryan?  
 What are some things that you would like to do with Ryan?

12. RYAN

These are the expectations of the reentry program:  
 Honest and open communication, Willingness to make amends (to the community)  
 You will not victimize anyone, To live by the agreements and expectations in your reentry plan  
 (READ AGREEMENTS THAT RYAN SIGNED WHILE INCARCERATED)

13. SUPPORT TEAM

14. WRAP UP



**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Attachment D**  
**Article in the Times Argus – December 24, 2007**

Circles of Support help ex-cons reenter society  
 December 24, 2007

*By Daphne Larkin Times Argus Staff*

"If you were by yourself getting out of jail, sitting in a motel room or an empty apartment, that's pretty much setting someone up for failure. ... That just makes someone feel like crap.

"I definitely wouldn't be where I'm at now if it wasn't for their support and what they've done."

Those words were told to a reporter recently by a felon when asked about a program run by the Montpelier Community Justice Center that paired him with community volunteers that helps inmates when they leave prison and successfully reenter society.

This felon, who spent 39 months in jail, works and lives in Barre and said he has benefited immensely from getting to know his circle of support; he calls all the members of his group "friends," people with whom he has taken walks, discussed problems, eaten meals and even gone skiing.

The program is called Circles of Support and Accountability. It is a part of the Restorative Reentry Programs in Washington County and has been operating for two-and-a-half years on a federal grant that runs out at the end of this month.

COSA programs exist in Montpelier, Barre, Brattleboro, St. Johnsbury and Newport. For now Montpelier and Barre will continue with existing circles, not taking on any new inmates until either funding is secured or the program can no longer be sustained.

COSA is based on restorative justice and helps nurture "a way of being, doing unto others, giving back and staying out of trouble," said Lori Baker, executive director of the Greater Barre Community Justice Center.

The program, which operates on an annual budget of approximately \$80,000, matches a person who has been in prison at least six months – a "core member" – coming out of prison with a group of four or five community members who volunteer to be that inmate's support network.

Volunteers are trained in criminal thinking, addiction, sex offenders, recovery and restorative justice.

The program was designed for offenders of listed crimes, the most violent crimes including murder, assault, kidnapping and sexual assault. To qualify for the program a core member must have spent at least six months in jail.

The COSA group is hand-picked for the felon to help the inmate address specific issues he or she may have upon re-entry.

A core member, usually referred by a caseworker, goes through an application process while still in jail, meets with the COSA group assigned to him or her and then waits to be accepted.

All COSA participants must make a one-year commitment to the program, and in the first four months the circles meet once a week to check in with their core member.

Volunteers help their core member with everything: housing, employment, transportation, shopping, budgeting and every day coping.

"They're there to help them take the next steps in their lives and also to hold them accountable," Baker said.

**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Attachment D**  
**Article in the Times Argus – December 24, 2007**  
**Page 2**

The COSA program helps with something else, too: Some felons spend longer in jail than they need to because they're held until they have housing on the outside, and it's very difficult to secure appropriate housing while still locked up.

COSA groups help their core member find housing and help with rides because felons aren't allowed to drive until at least a year after reentry.

"It was really scary for me stepping out," said one core member who spent 18 years in prison. "I'd have panic attacks; I was scared walking down the street, shopping."

His group helped him assimilate to life on the outside. They went shopping with him and were – and continue to be – available when he needed a friend. They helped him find a full-time job, earn his high school diploma and train for a job working for the city of Montpelier.

"I go shopping now, I feel comfortable walking the street," he said. "It's given me a whole different perspective on how to do things. It's great for me now; I didn't think I was going to make it."

The Greater Barre Community Justice Center was booming Tuesday night as volunteers and the ex-cons they support got together for an annual holiday party.

Cake, cider and presents were the structure of the joking, laughing and congratulations that filled the room.

"It's all these people going way and beyond," said one core member who was celebrating with her circle Tuesday night. "They just want me to be healthy."

This young woman had spent a year in jail, got out last September with a COSA circle waiting to lend support, but relapsed and landed back in rehab and then jail. She said her circle managed to keep her apartment for her while she was back in jail, setting up a re-payment plan for rent that she adheres to currently.

When asked how she is doing now, the woman replies: "I'm doing actually excellent. I was cocaine-addicted and I think I would have relapsed by now if it weren't for them."

"I went to the lowest point (and) having COSA members through all that, to stick through that – I've never had that before," she said.

The program saves the state money as well. The Washington County COSA programs have served 22 felons. According to statistics from July 1, 2005, through Nov. 30, 2007, compiled by program organizers, the program has saved the state an average of \$93,000 a year by keeping these felons out of prison.

With funding running out, the future of the program is uncertain. Core members expressed concern that others won't get the benefit of a solid group of well-intentioned people on their side.

"That's really too bad because I know a lot of people who can benefit from it; a lot of people inside stepping out are going to have a hard time (so) that's too bad if they have nobody working with them to step them in right direction."

"If it wasn't for my COSA group, I don't think I would have made it," said one.

Contact Daphne Larkin at (802) 479-0191 ext. 1171 or [daphne.larkin@timesargus.com](mailto:daphne.larkin@timesargus.com).

**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Attachment E**  
**Program Abstract from the Vermont Department**  
**of Corrections 2010 Second Chance Act**  
**Grant Application**

**Program Abstract**

**Applicant:** Vermont Department of Corrections (VT DOC)

**Project Title:** Coming Home Full Circle: Restorative Reentry in Vermont

**Total Project Costs:** \$730,000.00    **Amount Requested:** \$365,000.00

**Award Category 1:** Unit or components of state government agencies serving adult offenders

**Goals:** 1) 50% reduction in recidivism for offenders served through this project relative to the norm for the Target Population; 2) Sustainable, evidence-based model for broader replication.

**Strategies:** Returning high risk offenders in critical need of community-based accountability and support beyond standard Corrections supervision are connected, prior to release, with Circles of Support and Accountability (COSAs) in close coordination with VT DOC case management.

**Key/Major Deliverables:** 1) COSAs for 24 high risk offenders; 2) Independent evaluation.

**Coordination Plans:** VT DOC identifies offenders assessed through validated instruments as being high risk, and who will be returning to a municipality with a Community Justice Center (CJC). CJC staff recruit and train at least three community volunteers to work with each offender in a COSA for at least one year. CJC staff also convenes a Case Conference every six weeks, bringing together an expanded set of professional and personal stakeholders in the offender's reentry process to share new information, address violations, discuss concerns, identify next steps, and celebrate successes. Through this process, pro-social relationships are developed which increase offender investment in the community and improve the public perception of those reentering, addressing the root causes of recidivism and fragmented services. This design allows us to maximize the synergy between our Offender Responsibility Plan case management process and the existing statewide capacity through municipal partnerships for citizen involvement in an evidence-based approach to reentry.

Testimony of Andrew A. Pallito  
 US Senate Judiciary Committee  
 Wednesday, July 21, 2010  
 Attachment F  
 Vermont Reentry Practices – Additional Talking Points

#### VERMONT REENTRY PRACTICES

- Reparative Probation was a foundational stepping stone to our reentry practices. Reparative Boards and municipal Community Justice Centers were initially funded through a Department of Justice grant in 2005 and sustained through community-based contract funds which have grown incrementally, based on the proven effectiveness of the approach. Based on Doble market research about what the Vermont public expects from the Vermont Department of Corrections, services were structured around these citizen-based priorities:  
 SAFETY from Violent Predators  
 ACCOUNTABILITY for Violators of the Law  
 REPAIR of the Damage Done  
 TREATMENT to Assure Safe Release  
 INVOLVEMENT of the Community  
 ASSURANCE of Quality and Efficiency
- A recent National Institute of Justice study of our Reparative Probation program has demonstrated that restorative approaches for offenders achieve significantly positive reductions in recidivism (over 23%). The same principles underlie our reentry practices.
- Based on successful Correctional outcomes and comprehensive stakeholder satisfaction (victims, offenders, citizens, crim. justice system players, law enforcement) associated with Reparative Probation, the Vermont Department of Corrections began to design a process which utilized the existing community justice infrastructure to apply the same underlying restorative principles and relational values in the reentry process. By providing returning offenders with high measures of support and accountability, fostering meaningful, participatory community connections, and leveraging the informal social influence exercised by families and neighbors, we effectively complement our evidence based assessment and risk-based management practices.
- The Vermont Department of Corrections received a \$2 million grant in FY 2002 through the Federal Serious and Violent Offender Reentry Initiative (SVORI) that allowed for the Vermont Department of Corrections to begin our community-based restorative reentry approach.
- Through a Request for Proposals process enabled by the SVORI funding, Vermont communities with municipal Community Justice Centers were able to plan and then implement restorative reentry programs.
- This grant, however, expired at the end of December 2008 (after 2 no-cost extensions) and no reentry-specific funds have been awarded since that time. As a direct result, Community Justice Centers have not been able to provide the personnel required for coordination, and have significantly scaled back their level of reentry involvement until resources become available to allow these activities to resume.
- A Community Justice Center (CJC) is a local government program where citizens work on preventing crime, resolving conflict, and rendering justice on the issues that matter to them. The CJC serves as a community hub of restorative activity and relational influence. This collaborative enterprise forms partnerships with government agencies and nonprofit service providers including law enforcement, victim advocacy groups, the faith community, substance abuse treatment providers, health and mental health agencies, housing authorities, child welfare services, educational institutions, vocational rehabilitation and employment services to achieve its goals.
- The support and informal authority derived from these relationships increases offender investment and opportunity. Increased citizen participation diminishes public resistance and marginalization of returning offenders, dramatically improving their potential for success and achieving a significant reduction in recidivism.

**Testimony of Andrew A. Pallito**  
**US Senate Judiciary Committee**  
**Wednesday, July 21, 2010**  
**Attachment F**  
**Vermont Reentry Practices – Additional Talking Points**  
**Page 2**

- The Offender Responsibility Plan (ORP) is the Vermont Department of Corrections Case Management System for coordinating, delivering, and tracking the range of treatment and work readiness development services specific to the offender's strengths and needs. It constructs a customized map of stakeholder relationships and services. The document evolves over time to reflect the offender's progress, including pre-release services such as vocational assessment, housing readiness, benefits eligibility, transition planning and post-release supervision and services as well as transitional and permanent housing, behavioral assessments and therapy, substance abuse treatment, employment, parenting and other family obligations.
- The ORP itself is a *restorative process* that encourages the returning offender to accept responsibility for the harm his or her crime caused. It is a fluid case plan developed collaboratively by Vermont Department of Corrections facility and field casework staff along with the offender and all other appropriate parties.
- The Vermont Department of Corrections has formed critical new partnerships with offender-serving agencies throughout Vermont including the Department of Labor's Vocational Rehabilitation Division, the Social Security Administration, the Veteran's Association, the Office of Child Support and the Agency Of Human Services' Housing and Economic Benefits Divisions. Through Memorandums of Understanding with these agencies, we have enlisted their on-going support in proactive reentry planning, resulting in valuable utilities such as reentry employment specialists, housing search and retention specialists, electronic benefit cards and personal identification provision prior to release.
- Challenges we continue to face are lack of federal funding to support prior efforts, community resistance, public policy issues relative to sex offenders, and the standard barriers to successful reentry (housing and employment chief among them). Also, we have not been resourced to conduct an empirical, longitudinal study of our reentry programs. So while we have significant anecdotal information from program participants, staff and volunteers to suggest its effectiveness, we do not have the uncompromising data that would reflect this experience.
- Many of the individuals who reentered with the assistance of a community-based support cite the critical role these services have played in allowing them to get their footing and stay out of prison. Targeted reentry services such as employment and housing assistance have also stemmed directly from our Community Justice Center reentry programs, resulting in a significant number of successful and stable placements across the state. The organizational culture of the Vermont Department of Corrections has also grown to recognize and appreciate how our work is enhanced through direct citizen involvement in the reentry process. We have begun to change the conversation about returning offenders in local towns from "how can we keep them out?" to "how can we make them a part of this community so they won't do harm again?"

**VERMONT DEPARTMENT OF CORRECTIONS  
ORP CASE PLAN**

Development/Revision Date: \_\_\_\_\_ Designated RSN? ☐ Yes ☐ No

Offender Name- Last:	First:	DOB:	P.I.D.:	
Min Date:	Max Date:	Projected Movement Date:		
Legal Status:	Offenses:			
Assigned Caseworker(s):	at	facility;	and	at P&P

**ASSESSMENTS, EDUCATION AND NEEDS**

<b>LSI</b>		<b>Date Completed:</b>		<b>Overall Score:</b>	
Criminal History:	%	Education/Employment:	%	Finances:	%
Leisure/Recreation:	%	Companions:	%	Alcohol/Drug:	%
				Family/Marital:	%
				Emotional/Personal:	%
				Housing:	%
				Attitudes:	%
<b>Sex Offender Risk Assessment (men only):</b> RRASOR Static 99 High Risk? <input type="checkbox"/> Yes <input type="checkbox"/> No					
<u>VASOR</u> - Recidivism Risk		; Risk Level		; Violence Risk	
				; Total Score	
<b>Sex Offender Registration Required?</b>		Completed?		Date:	
<b>Check dbase for victim info, if relevant. Initial:</b>					
<b>Other Assessments: Accommodations/Disabilities:</b>					
<b>Education:</b> High School Diploma? <input type="checkbox"/> Yes <input type="checkbox"/> No GED? <input type="checkbox"/> Yes <input type="checkbox"/> No Last Grade Completed: 23+ Yrs of age? <input type="checkbox"/> Yes <input type="checkbox"/> No					
Ever been on an IEP? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure Difficulty with Reading, Writing or Math? <input type="checkbox"/> Yes <input type="checkbox"/> No Please Explain:					
<b>Veteran?</b>	<b>Other Needs?</b>	<b>DNA Required?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<b>Collected?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No Date:

**DOC EXPECTATIONS**

The case plan is your guide for taking responsibility for your offense and future. In addition to fulfilling the identified objectives, including mandatory programs, you are expected to abide by all requirements and conditions associated with your confinement and supervision. (Examples of required programs include INDAP, CSC, VTPSA, ISAP, BIP.) # of PPC's required (if relevant):

Programs: 1. \_\_\_\_\_ Approx. Start Date 2. \_\_\_\_\_ Approx Start Date Other \_\_\_\_\_

DOC staff will assist you in developing a plan that addresses your obligations and will support you in your efforts to complete the plan and become a responsible citizen.

2/08

**STRENGTHS AND ASSETS** *(Identify your skills and personal strengths)*

**COMMUNITY OF PLANNED RESIDENCE**

*(Inmates)* Where did you live prior to your incarceration? Or, *(Offenders on community supervision)* where are you currently living?

Where do you intend to live upon your release? *(If applicable)*: What ties do you have to this community?

It is the Department's policy that offenders reintegrate into the community where they lived prior to incarceration. Exceptions to this policy must be approved by the Casework Supervisors in both the facility and field.

**HARM TO OTHERS**

**Individuals** *(Direct victim, family members, co-workers, etc., add table for each individual)*

As a result of my *(list behavior)*, *(name of person)*, has been, or may have been, affected in these ways: *(include physical, emotional, mental, relationship.)*

**Community** *(Community where offense occurred)*

As a result of my *(list behavior)*, the community *(list name of community)* has been affected in these ways:

**SELF IMPACT** *(How have your actions affected your personal goals, future goals, relationships, etc.)*

**GOALS:**

Long Range Goal:

1. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

2. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

3. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

2/08



Incarcerative Goal: (*Inmates only*)

1. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

2. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

3. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

2/08

Community Goal:

1. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

2. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

3. Objective:		
Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name

2/08

TRANSITION PLANNING

Need Areas	Offender Action Steps	Staff/Community Action Steps	Date Completed/ Last Name
After Care			
Children (include child support)			
Community/Safety			
Education			
Employment			
Family			
Finances			
Health Care			
Housing			
Immediate Release Needs			
Interpersonal Support			
Living Skills			
Mental Health			
Primary Source ID			
Recreation Skills			
Reparations			
Restitution			
School			
Substance Abuse			
Transportation			
Other:			

Notes:

2/08

**Authorization of Case Plan (Entire Case Plan or Transition Plan): (Signatures)**

Offender: \_\_\_\_\_ DOB: \_\_\_\_\_ Date: \_\_\_\_\_

Facility Caseworker (if applicable): \_\_\_\_\_ Date: \_\_\_\_\_

Probation and Parole Caseworker: \_\_\_\_\_ Date: \_\_\_\_\_

☐ This was approved by \_\_\_\_\_ & \_\_\_\_\_ on \_\_\_\_\_ (date of last signature) original signatures can be found in the core file

**Reviewed by: (Signatures)**

Facility Caseworker Supervisor (if applicable): \_\_\_\_\_ Date: \_\_\_\_\_

Probation and Parole Caseworker Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

☐ This was approved by \_\_\_\_\_ & \_\_\_\_\_ on \_\_\_\_\_ (date of last signature) original signatures can be found in the core file

☐ The supervisor has noted the case plan as approved on the shared drive in the comments section



## **Department of Justice**

---

**STATEMENT FOR THE RECORD OF**

**LAURIE O. ROBINSON  
ASSISTANT ATTORNEY GENERAL  
OFFICE OF JUSTICE PROGRAMS**

**BEFORE THE**

**COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE**

**ENTITLED**

**"THE SECOND CHANCE ACT"**

**JULY 22, 2010**

**LAURIE O. ROBINSON  
ASSISTANT ATTORNEY GENERAL  
OFFICE OF JUSTICE PROGRAMS  
U.S. DEPARTMENT OF JUSTICE**

Mr. Chairman, Ranking Member Sessions and Members of the Committee: I am pleased to have the opportunity to discuss the efforts of the Department of Justice (DOJ) in implementing the Second Chance Act. Our Administration is committed to reducing the nationwide recidivism rate, decreasing the billions of dollars spent annually on incarceration, and ensuring returning offenders have the tools they need to become contributing members of their communities. I am pleased that the Department's Office of Justice Programs (OJP) is working toward these goals. We appreciate the Committee's interest in this important issue.

My name is Laurie Robinson and I am the Assistant Attorney General for OJP. The mission of OJP is to provide leadership, research, and information, as well as essential funding in support of state, local, and tribal criminal and juvenile justice strategies to achieve safer communities.

According to OJP's Bureau of Justice Statistics (BJS), there are currently more than 1.5 million individuals serving time in federal and state prisons and an additional 786,000 people incarcerated in local jails. About 725,000 individuals are released from prison and millions of people cycle through local jails every year. Ninety-five percent of all people incarcerated today will eventually be released and will return to their communities. However, studies show us that half of them will return to prison or jail within three years after their release.

Another BJS study reported that drug offenders represent the largest source of jail population growth—an increase of 37 percent from 1996 to 2002. About two-thirds of the growth in inmates held in local jails for drug violations was due to an increased number of persons charged with drug trafficking. Two-thirds of the 2002 jail inmates said they were regular drug users. More than half of those inmates who had been convicted reported having used drugs in the month before their current offense. Almost a third said they were using drugs at the time of their offense.

High recidivism rates are wreaking havoc on state and municipal budgets. According to the Council of State Governments (CSG) Justice Center, in the past 20 years state spending on corrections has grown at a faster rate than nearly any other state budget item. In Michigan, for example, corrections spending recently accounted for almost a quarter of state general fund expenditures, and one in three state employees worked for the state's Department of Corrections. In Kansas, the prison population was expected to increase 22 percent by 2016, requiring approximately \$500 million in additional construction and operating costs. Other states are facing the same challenge.

OJP is responding to this challenge in a number of ways. First, as a general matter, we believe we have a responsibility to be not only tough on crime, but also smart on crime. This

means supporting programs that are backed by evidence of effectiveness, not ideology. Second, we are committed to ensuring that people returning from prisons and jails have the tools they need to become contributing members of their communities, which begins during incarceration and continues through their release, just as we need to provide tools to communities so they are prepared to assist individuals in their reentry.

To meet these goals, and with the assistance of this Committee's work on the Second Chance Act, OJP is providing grants, training and technical assistance, and policy guidance through its Second Chance Offender Reentry Initiative. In Fiscal Year (FY) 2009, OJP's Bureau of Justice Assistance (BJA) and Office of Juvenile Justice and Delinquency Prevention (OJJDP) solicited applications under five grant programs:

- Second Chance Act Mentoring Grants to Nonprofit Organizations;
- Second Chance Act Prisoner Reentry Initiative Demonstration Grants;
- Second Chance Act National Adult and Juvenile Offender Reentry Resource Center;
- Second Chance Act Youth Offender Reentry Initiative; and
- Second Chance Juvenile Mentoring Initiative.

We received more than 750 applications. In October 2009, we announced more than \$28 million in grant funding to 68 state and local governments and non-profit organizations through these five initiatives. The awards were based on a program's evidence-based process and the delivery of evidence-based services during and after confinement.

This initiative is a comprehensive set of programs designed to support state, local, and tribal governments in their efforts to assist individuals' transitions from prison back into the community and break the cycle of recidivism. Services are provided in a variety of ways for adult and juveniles, including substance abuse treatment, mentoring, literacy classes, job training, education programs, housing and employment assistance, and mental health programs. Our role is to facilitate partnerships among community groups many of whom receive funds from other federal agencies such as the Substance Abuse and Mental Services Administration, corrections agencies, and other justice system agencies to make sure these services are available at the beginning of an incarceration and continuing after release. In addition, we advance the reentry field through training, disseminating knowledge, and promoting evidence-based best practices.

Last year OJP announced the creation of the National Reentry Resource Center in partnership with the Council of State Governments (CSG) Justice Center. Through the National Reentry Resource Center, OJP, the CSG Justice Center, federal agency partners, and many other national organizations, we are providing valuable training and technical assistance to states, localities, and tribes to develop evidenced-based reentry programs. The goal is for the Center to be a one-stop, interactive source of current, user-friendly reentry information; to identify, document, and to promote evidence-based practices; and deliver individualized, targeted technical assistance to the Second Chance Act grantees. At the end of May 2010, the Center hosted its first national conference for grantees, *Making Second Chances Work: A Conference for Grantees Committed to Successful Reentry*, in Washington, DC. The knowledge gained

through conferences like this and future initiatives of the Center will help state, local, and tribal governments reduce the recidivism rate and protect the communities they serve.

In FY 2010, Congress appropriated \$100 million to continue the Second Chance Act Offender Reentry Initiative in OJP. This funding level represents an increase of \$75 million over the FY 2009 appropriation of \$25 million. This \$100 million also includes \$10 million for research, furthering our goals to support evidence-based initiatives. In FY 2011, the President's Budget request includes \$100 million to continue the Second Chance Act Offender Reentry Initiative.

Last week, Attorney General Holder called for a new approach to dealing with criminals and announced the creation of an interagency working group to focus exclusively on reentry issues. The group will focus on everything from mental health and drug treatment, housing, and job training needs as well as policy recommendations and efforts to enhance interagency coordination at the federal level.

To further these efforts throughout the federal government, the President launched a new Transitional Jobs initiative with the Department of Labor for ex-offenders and low-income, noncustodial fathers who face serious barriers to finding work and keeping work. The majority of returning prisoners are parents and strengthening family ties upon release can help returning prisoners successfully reintegrate into society. Through this program, fathers will be helped to develop the skills and experience they need to move into full-time, long-term employment so they can meet their child support obligations and help provide for their families.

Recidivism is a complicated problem and there is more to learn in this area, but some states are showing results. Analysis by experts from CSG's Justice Center showed that violations of parole and probation were a significant factor in individuals returning to prison in Kansas. In response, the state enacted new policies and redirected \$7.9 million to strengthen probation and parole operations and expand treatment programs. As a result, the state prison population decreased by 4 percent and recidivism rates declined by more than 20 percent.

At OJP, we are committed to investing in research to make sure we spend our public dollars wisely. One study, funded by OJP's National Institute of Justice, recently published preliminary results (<http://www.ncjrs.gov/pdffiles1/nij/226872.pdf>) that found if first-time arrestees remained "arrest-free" for three to eight years, they were no more likely to be arrested than the general population. We believe that our preliminary findings and ongoing research offer an opportunity to determine when an individual might be "reformed." The implications could fundamentally change the way we view people formerly incarcerated and their potential for reintegration into society. More importantly, think of what it could mean in our efforts to reduce crime and protect communities.

We thank the Committee for its leadership on this issue and for the opportunity to submit a statement for the record on this very timely and important topic. We look forward to working with Congress on both reentry initiatives and other innovative, evidence-based approaches to reducing crime. In addition, we look forward to continuing this dialogue at the Committee's next hearing regarding the Second Chance Act—and sharing with you successes we are confident will follow from this important initiative.



Testimony of Sol Rodriguez  
Executive Director  
OpenDoors

Hearing before the Senate Judiciary Committee

*The views expressed are those of the author and should not be attributed to OpenDoors, its trustees, or its funders.*

Senator Leahy and distinguished members of the committee:

Thank you for the opportunity to submit testimony today on the issue of prisoner re-entry. My name is Sol Rodriguez and I am the Executive Director of OpenDoors, a non-profit community-based organization in Providence, Rhode Island. The mission of OpenDoors is to strengthen communities by supporting the formerly incarcerated. We were one of the recipients of the 2009 Second Chance Act Mentoring awards for our peer and one-on-one mentoring programs.

OpenDoors was originally created in 2002 out of the shared vision of churches, community-based organizations, and officials at the Rhode Island Department of Corrections to address the disproportionate impact of incarceration on certain neighborhoods in Providence, Rhode Island. We have since expanded to work with individuals all over the state and to serve as a one-stop center for formerly incarcerated individuals and their families.

Throughout our long history of supporting this population, we have become intimately familiar with the many challenges of this work. While formerly incarcerated people consist of a diverse group of individuals with experiences, education levels, and histories all over the map, the population is disproportionately low-skilled with little or no work experience or formal education. Individuals returning to Rhode Island from prison reflect national trends: more than half are parents, they are disproportionately people of color, and the median education level is less than high school. Many returning individuals have mental health and substance abuse issues, lack stable housing, and possess crippling debt.

Successful re-entry can be profoundly difficult, even for those individuals deeply committed to the process. In Rhode Island, inmates are given no more than a bus ticket when they are released from the prison facilities. They often return to fractured relationships, little or no financial resources, few job prospects, and other mounting barriers. There is legal discrimination in employment and in housing. Our clients are frequently barred from gainful employment by their criminal record, and are ineligible for subsidized housing for 10 years following a felony conviction—often even longer. Individuals released from prison often have terrible credit and astronomic levels of debt - one study in Massachusetts found that, on average, individuals leaving prison owe more than \$10,000 in unpaid child support.

Accessing resources that are designed to aid people in transition requires extensive knowledge navigating the bureaucracies, many of which have strong incentives to exclude this population due to their multi-layered needs. Additionally, there is a tremendous cultural stigma associated

with having a criminal record, and serving individuals who are formerly incarcerated is often the last on the list of causes a charitable or philanthropic individual might support. There are very few resources designated to serve this population despite the overwhelming evidence of the need.

Meanwhile, incarceration rates continue to escalate at an alarming pace. The United States has the highest incarceration rate in the world. There are nearly 2.4 million Americans behind bars in this country – or one in every 100 adults – and one in every 31 individuals are under some kind of criminal justice supervision. In some communities, as many as one in every eight adult males is incarcerated. Over 600,000 individuals will be released to our communities each year, and most people in prison will someday be released. The repercussions of the tough on crime movements of the last several decades will be felt for years to come, which is why it is critical that we create solutions to deal with this issue now.

Our collective failure to provide support for individuals returning from prison is reflected in our recidivism rates. In Rhode Island, over 62% of individuals will return to prison within three years of release. In some states, this number is as high as 70%.

This has a gigantic social and economic cost. As a country, we spend about \$69 billion on corrections each year. In Rhode Island, we spend an average of \$40,000 a year *for each individual who is incarcerated*. States spend an average of 7% of their budgets on incarceration, and the cost of medical care for inmates is increasing 10% annually. This amount is clearly a reflection of our priorities – in many states, including Rhode Island, we spend more on prisons than we do on higher education. In tighter financial times, investing financial resources in this way becomes harder and harder to justify.

Not only does this reflect a drain on state and federal budgets, it also reflects a loss of millions of dollars in potential taxpayer revenue. In Rhode Island, as in other parts of the country, we have an aging workforce that will need to be replaced. We cannot afford to have such a high proportion of our young people de facto excluded from the workforce during the peak of their earning potential. Individuals who are formerly incarcerated, unable to obtain employment, and cycling through the prison system will be unable to pay into social security funds. Unpaid child support and the loss of the stability of a two-parent household also produce huge financial and human costs for families.

The consequences of these factors, when taken together, represent a significant future public safety threat to our society. Formerly incarcerated individuals must surmount incredible obstacles to avoid returning to the streets or prison. If we do not take steps to solve this issue now, we will be spending much more in the future to support these individuals and their families once they are past the age of employability with no social safety net to fall back on. As a society, we will bear the burden of this mistake for decades to come in services we provide for the homeless, urgent medical care, victims' services, public assistance, and the costs of children in state custody.

It does not have to be this way. Programs that help the formerly incarcerated secure jobs, ease the transition from prison to the community, and provide relationship-based support have been proven to lower recidivism costs and transform individuals from tax burdens to tax payers. In

Michigan, the Michigan Prisoner Re-Entry Initiative was recently able to cut recidivism rates statewide from 55% to 38% because of deliberate and significant state investments in re-entry programming. There is reason to believe that this kind of success can and will continue if the resources are made available.

At OpenDoors, we attempt to provide solutions to these issues holistically, addressing each barrier in connection to the others, and providing our clients with the best possible chance of success post-release. We begin by preparing inmates for release from state facilities. OpenDoors continues to provide strong support during the post-release period, and assists families of offenders through counseling and programming that builds on individual and family strengths. Our walk-in resource center offers monthly programming specifically designed for individuals with criminal records that includes housing preparedness, job readiness and job placement, one-on-one and peer mentoring, civic participation, financial literacy, computer skills, recovery services, and more. The agency is also currently in the process of developing the first re-entry housing project in the state, which upon completion in May 2011 will provide 19 units of permanent supportive housing for formerly incarcerated individuals, expanding access to Section 8 vouchers previously unavailable to them.

It has been our experience that direct service is not enough to curb this rising tide. Too often, individuals with criminal records are wholesale barred from access to the very services ostensibly designed to serve disadvantaged populations. Because ex-offenders face barriers related to their incarceration above and beyond those faced by other poor people – including but not limited to legal restrictions, the time and geographic limitations placed on them by probation and parole, and debt related to incarceration costs – they are much harder to serve. Government and non-profit agencies alike frequently exclude this population from their services because of the difficulty of meeting performance metrics that are designed without taking a realistic appraisal of these barriers into account. This issue has been well-documented in the implementation of programs like the Workforce Investment Act, but cuts far and wide in the service provision field.

In an effort to more holistically serve our clients, we began engaging in policy and advocacy work on behalf of this population in 2003, and have celebrated multiple successes. In 2004, we successfully lobbied Rhode Island to opt out of the federal ban on food stamps for individuals convicted of felonies, thus increasing access to this critical safety net. In 2006, we were able to restore the right to vote for individuals on probation and parole through a ballot initiative that amended the state constitution, and have since registered over 6,300 formerly disenfranchised Rhode Islanders. Over 3,000 individuals on probation or parole in the state voted in the 2008 election and, based on national data, are not expected to have voted significantly differently from the rest of the population. Our successful court debt reform advocacy has increased flexibility in the state, allowing individuals to create payment plans and pay down their debt incrementally, instead of simply being re-incarcerated for unpaid debt at a financial cost to the state.

A large part of our re-entry support has always centered on building relationships and creating a safe haven for formerly incarcerated individuals—a place where they can engage in positive activities and obtain needed services instead of returning to the destructive, unsafe, and triggering environments in which they were initially arrested. By providing a walk-in community

space that is welcoming to this population and holding regular community events and activities, we have been able to strengthen families and encourage healthy and supportive environments for our clients. Our peer mentoring program was established as part of this effort, and has been sustained and expanded under funding from the Second Chance Act.

Our Second Chance Mentoring Program, launched this spring, aims to provide peer and one-on-one mentorship opportunities for the formerly incarcerated. This program has been paired with our transitional jobs and advanced employment program, offering individuals hard skills and prerequisite training that will help to ensure their success in the workforce. Mentors and mentees both go through extensive training and assessment to ensure successful matches, which are made prior to their release from prison and continue for a year after their release. This program is bolstered by ongoing community-building activities at our center, and the collaborative relationships we have developed with churches, businesses, and other organizations.

Our one-on-one mentoring program has increased our capacity to build networking opportunities for our clients. A recent survey of over 900 Rhode Island employers found that a referral from a trusted source was the single greatest reason why someone would hire an individual with a criminal record--findings which mirror other national studies. Toward this end, we seek to create mentor-mentee matches that not only provide an opportunity for alternative social interaction and role modeling but increased access to services, networks, and eventually, jobs.

The testimonies of our clients confirm the importance of this type of program for facilitating a smooth transition out of prison. A recent mentee stated, "This program sounds like it is exactly what I need. I have been on my own for many years. Without guidance and support I ended up in jail. A positive role model would do me a world of good." Another said, "I have struggled with positive male role models in my life. I am excited to find that support to help me get my second chance."

The experience has been a positive one for our volunteer mentors, too. One reports, "I want to be part of the community that welcomes people back in." Another said, "After working with clients from OpenDoors, I realized that these are regular men who just got the short end of the stick. Everyone deserves a second chance and everyone deserves someone who cares." We believe that these testimonials speak to the strength of the potential for the Second Chance Act to help curb the recidivism rates of incarcerated individuals in this country, and encourage the kind of cultural transformation required for our nation to embrace this issue as their own.

The goal of our Second Chance Mentoring program is ultimately to reduce recidivism for the target population by 50% within five years. While we believe that our mentoring activities are a key component to ensuring that we can meet this goal, we believe that the combination of our mentoring activities with the holistic care offered through our organization that will ultimately produce the best results. Battling cycles of incarceration requires a multi-pronged approach and the collaborative efforts of numerous stakeholders.

With all of this in mind, I would like to sincerely thank you for giving this important issue your attention and investment, and urge that you continue to provide this necessary support.

**We would like to make the following recommendations regarding the re-appropriation of funding for the Second Chance Act:**

- 1) **Continue allocating funding specifically to serve formerly incarcerated individuals.** As stated above, there are multiple reasons why this population is frequently denied access to other resources designed for disadvantaged populations, despite previous attempts to address this issue through programs focused more generally on disadvantaged populations. Continuing to provide a separate funding stream for this population will allow this issue a direct stream of resources that will not have to unfairly compete with more sympathetic and advantaged populations.
- 2) **Commit to this issue long-term.** Because incarceration rates continue to escalate, we will be facing this problem for decades to come. There is no easy solution, and solving this problem will require the long-term investment of Congress. We realize that there are many competing issues that Congress needs to tackle in these tough economic times, and many law-abiding citizens deserving of your attention and support. But if we do not act now to curb this growing problem, we will be paying exponentially in the future.
- 3) **Allow direct service providers to apply for all types of Second Chance Act funding directly.** Mentoring is but one small piece involved in a commitment to reducing recidivism rates. Numerous studies have found, for example, that a good job is the single largest factor in an individual's ability not to recidivate. We urge you to expand the scope of the Second Chance Act to allow non-profits and community-based organizations to provide job readiness activities, housing services, financial literacy, and other essential and tested techniques as part of a comprehensive re-entry strategy. It is our educated opinion that making more flexible funding accessible only to city and state governments detracts from the efficiency and effectiveness of re-entry programming by placing control over funding in the hands of organizations that are not as familiar with the needs of the population, nor as experienced and capable at running effective programming.
- 4) **Connect re-entry programming to other smart-on-crime initiatives.** Direct service that is isolated and siloed from the systems that create such large recidivism rates will not sufficiently address this issue in the long-term. Curbing our over-reliance on incarceration requires solutions at all levels of intervention, beginning with services provided prior to conviction. To produce the best possible results in the long term, we must increase treatment and diversion options, increase access to the social safety net and other programs designed to transform tax burdens to tax payers, and invest in rehabilitative services at every level of corrections.

